Laws, Memorials, and Resolutions

OF THE

TERRITORY OF MONTANA,

PASSED AT THE

EXTRAORDINARY SESSION

OF THE

LEGISLATIVE ASSEMBLY,

CONVENED BY PROCLAMATION OF THE GOVERNOR OF SAID TERRITORY, BEGUN AND HELD AT THE CITY OF VIRGINIA, THE CAPITAL OF SAID TERRITORY, ON MONDAY, THE FOURTEENTH DAY OF APRIL, A. D. 1873, AND ENDING ON THE EIGHTH DAY OF MAY, A. D. 1873.

TO WHICH ARE PREFIXED

THE CONSTITUTION OF THE UNITED STATES, THE ACT ORGANIZING THE TERRITORY, AND AMENDMENTS THERETO.

PUBLISHED BY AUTHORITY.

DAILY AND WEEKLY HERALD.
HELENA, MONTANA,
ROBERT E. FISK, PUBLIC PRINTER.
1874.

HeinOnline -- 1873 i 1873

DAY, EGBERT, & FIDLAR,
MANUFACTURERS,
DAVENPORT, IOWA.

HeinOnline -- 1873 ii 1873

CERTIFICATE OF AUTHENTICATION.

TERRITORY OF MONTANA, }
SECRETARY'S OFFICE, } ss:

I, JAMES E. CALLAWAY, Secretary of the territory of Montana, do hereby certify that the printed laws, joint memorials, and joint resolutions contained in this volume are true, correct, and full copies of all the enrolled laws, joint memorials, and joint resolutions that were passed at the extraordinary session of the legislative assembly of said territory, convened by proclamation of the governor of said territory, bearing test on the seventeenth day of March, A. D. 1873, which said session was begun and held at the city of Virginia, the capital of said territory, on the fourteenth day of April, A. D. 1873, and ended on the eighth day of May, A. D. 1873, with the exceptions of corrections in orthography and punctuation, and omissions inserted in brackets.

Done at the city of Virginia, the capital of said territory of
[SEAL.] Montana, this thirtieth day of June, A. D. 1873.

J. E. CALLAWAY, *Secretary.*

HeinOnline -- 1873 iii 1873

ERRATA.

On page 51, line 10, for "one," read "on.

HeinOnline -- 1873 iv 1873

TABLE OF CONTENTS.

PAGE.

CONSTITUTION OF THE UNITED STATES, ... 1–13

AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES, . . 14–18

ORGANIC ACT OF THE TERRITORY OF MONTANA, . . . 19–31

AMENDMENTS TO ORGANIC ACT, ... 31–34

ADMINISTRATORS AND EXECUTORS.

AN ACT in relation to administrators and executors, . . 35

APPROPRIATIONS.

AN ACT making certain appropriations to the historical society and to the territorial law library, ... 36, 37

ASSESSORS.

AN ACT to legalize the acts of county and district officers, . . 38

AN ACT to amend an act entitled "Counties and County Officers," 38, 39

CIVIL PRACTICE ACT.

AN ACT to amend certain sections, ... 39

AN ACT to amend section 563, ... 40, 41

AN ACT to amend section 202, ... 41–43

CRIMINAL PRACTICE ACT.

AN ACT to amend section 117, Chapter VII., . . . 43

AN ACT to amend section 459, ... 44

AN ACT relating to the trial of criminals for certain offences, . 45

AN ACT for the punishment of prisoners and others for certain offences, ... 45, 46

AN ACT to prevent parties from shooting in towns and enclosures, 46, 47

HeinOnline -- 1873 v 1873

COUNTY FINANCE.

PAGE.
AN ACT to repeal section 2 of Chapter XXVII., . . . 47

DISTRICT ATTORNEY.

AN ACT to amend section 1 of an act creating the office of district attorney, ... 48

ELECTIONS.

AN ACT to amend section 1 of Chapter XXIII., . . . 48

ESTRAYS AND LOST GOODS.

AN ACT to repeal Chapter XXIV., ... 49, 50

FEES.

AN ACT to establish and regulate the fees of sheriff, . . 50, 51
AN ACT to regulate the fees of county clerk and recorder, . . 52, 53
AN ACT to regulate the fees of witnesses, jurors, and certain officers, ... 53, 54
AN ACT to regulate the fees of the clerk of the district court, . 54–56
AN ACT to regulate the fees of county treasurer, . . . 57, 58
AN ACT to regulate the fees of justices of the peace, . . 58, 59
AN ACT to establish and regulate the fees of assessors, coroners, and other officers, ... 60
AN ACT to regulate the fees of probate judge and clerk, . . 61, 62
AN ACT to regulate the fees of district attorneys and other officers, 63, 64
AN ACT in relation to the payment of fees, ... 64

FOLIO.

AN ACT defining the word "Folio," 65

FUNDING INDEBTEDNESS.

AN ACT to authorize the territorial treasurer to issue bonds, . 65, 66

GAME.

AN ACT in regard to killing of game and catching of fish, . . 66–68

HURDY HOUSES.

AN ACT prohibiting the establishment of hurdy-gurdy houses and dancing saloons, ... 69

HeinOnline -- 1873 vi 1873

INTOXICATING LIQUORS.

PAGE.

AN ACT to repeal an act against the sale, and other purposes, . 69, 70

JURORS.

AN ACT to amend section 8 of Chapter XXXVII., . . . 70, 71

JUSTICES AND CONSTABLES.

AN ACT to amend section 112 of Chapter XXI., on page 456. . 71, 72

LEGISLATURE.

AN ACT to fix the time of holding the regular sessions, . . 72

LICENSES.

AN ACT concerning licenses, ... 73–82

LIMITATIONS.

AN ACT to amend section 22 of Chapter XLI., . . . 83

MINES.

AN ACT providing for the location and recording, . . . 83, 84

NOTARIES PUBLIC.

AN ACT to amend sections 7–12 and 14 of Chapter XLVII., . 84, 85

OFFICIAL BONDS.

AN ACT requiring territorial and county officers to record official bonds, ... 86

PENITENTIARY.

AN ACT to regulate and govern the penitentiary at Deer Lodge City, ... 86–93

RAILROADS.

AN ACT to provide for the formation of railroad corporations, . 93–109

AN ACT enabling and authorizing county or counties to subscribe to capital stock, ... 110–115

REVENUE.

AN ACT to repeal portions of section 23, approved January 12th, 1872, ... 116

HeinOnline -- 1873 vii 1873

ROADS AND HIGHWAYS.

PAGE.
AN ACT to provide for the working of public roads and highways, 116–120

SALARY — AUDITOR AND TREASURER.

AN ACT regulating the fees of the secretary, auditor, and treasurer of the territory, and superintendent of public instruction, . 121, 122

SCHOOLS.

AN ACT to amend an act to provide for a system of public schools, 122–126

SPECIAL LAWS.

AN ACT to punish vagrants in the county of Gallatin, . . 127, 128
AN ACT te provide for the publication of certain laws, . . 128, 129
AN ACT relating to certain warrants in Madison county, . . 130
AN ACT to provide for the payment of certain expenses, . . 130, 131
AN ACT to amend an act to incorporate the Historical Society of Montana, ... 131
AN ACT to furnish members of the legislative assembly with copies of laws and journals, ... 132
AN ACT authorizing the county commissioners of Missoula county to levy a special tax, ... 132, 133
AN ACT for the payment by the treasurer of Lewis and Clarke county to the treasurer of the Helena fire department, . 133
AN ACT making appropriations for printing auditor's and treasurer's reports, ... 133, 134
AN ACT to incorporate the town of Helena, ... 134–147

RESOLUTIONS.

House Joint Resolution to pay publisher of *Daily Montanian* for papers, ... 148
House Joint Resolution concerning obstructions on the Upper Missouri river, ... 148
Council Joint Resolution authorizing territorial auditor to draw warrant, ... 149

HeinOnline -- 1873 viii 1873

PAGE.
For the relief of L. M. Todd, ... 149
To pay George F. Cope, ... 150
House Joint Resolution appointing special committee to draft a "License Law," 150

MEMORIAL.

Memorial concerning an assay office in the territory of Montana, . 151

HeinOnline -- 1873 x 1873

CONSTITUTION

OF THE

UNITED STATES OF AMERICA.

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

Section 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

Sec. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union,

HeinOnline -- 1873 1 1873

according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island* and *Providence Plantations* one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

When vacancies happen in the representation of any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

Sec. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into the three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year, and if vacancies happen by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

HeinOnline -- 1873 2 1873

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president *pro tempore*, in the absence of the vice president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

Sec. 4. The times, places and manner, of holding elections for senators and representatives, shall be prescribed in each state, by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Sec. 5. Each house shall be the judge of elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of

HeinOnline -- 1873 3 1873

the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

Sec. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such consideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall

HeinOnline -- 1873 4 1873

not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary (except on the question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be re-passed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

Sec. 8. The congress shall have power:—

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes;

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

To provide for the punishment of counterfeiting the securities and current coin of the United States;

To establish post offices and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respectives writings and discoveries;

To constitute tribunals inferior to the supreme court;

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations;

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

HeinOnline -- 1873 5 1873

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a navy;

To make rules for the government and regulation of the land and naval forces;

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasion;

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress;

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of the particular states and the acceptance by congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

Sec. 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless, when in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another;

HeinOnline -- 1873 6 1873

nor shall vessels bound to, or from, one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.

Sec. 10. No state shall enter into any treaty, alliance, or confederation, grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net proceeds of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of congress.

No state shall, without the consent of congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

Section 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together, with the vice president, chosen for the same term, be elected as follows:—

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole

HeinOnline -- 1873 7 1873

number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[*The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president. But in choosing the president the vote shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case after the choice of president, the person having the greatest number of votes of the electors shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them by ballot the vice president.]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

*Annulled. See 12th amendment.

HeinOnline -- 1873 8 1873

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may by law provide for the case of removal, death, resignation or inability, both of the president and vice president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased or diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States."

Sec. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states when called into the actual service of the United States; he may require the opinion in writing of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have the power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the congress may by law vest the appointment of such inferior officers as they think proper in the president alone, in the courts of law, or in the heads of departments.

HeinOnline -- 1873 9 1873

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

Sec. 3. He shall from time to time give to the congress such information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws are faithfully executed, and shall commission all the officers of the United States.

Sec. 4. The president, vice president, and all civil officers of the United States, shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

Section 1. The judicial power of the United States shall be vested in one supreme court, and such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their office during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

Sec. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; [*between a state and citizens of another state;] between citizens of different states; between citizens of the

*Annulled. See 11th amendment.

HeinOnline -- 1873 10 1873

same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens, or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trials shall be held in the state where the said crime shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

Sec. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

Section 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Sec. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

HeinOnline -- 1873 11 1873

No person held to service or labor in one state under the laws thereof, escaping to another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Sec. 3. New states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states or parts of states, without the consent of the legislature of the states concerned, as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

Sec. 4. The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as one or the other mode of ratification may be proposed by the congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

HeinOnline -- 1873 12 1873

ARTICLE VI.

All debts contracted and engagements entered into before the adoption of this constitution shall be as valid against the United States under this Constitution as under the confederation.

This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the convention of nine states shall be sufficient for the establishment of this Constitution between the states so ratifying the same.

HeinOnline -- 1873 13 1873

AMENDMENTS

TO THE

CONSTITUTION OF THE UNITED STATES.

ARTICLE I.

Congress shall make no laws respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly drescribing the place to be searched, and the persons or things to be seized.

HeinOnline -- 1873 14 1873

ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land and naval forces, or in the militia when in actual service in time of war or public danger, nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI.

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

ARTICLE VII.

In suits at common law, where the value at controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined by any court in the United States than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration, in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

HeinOnline -- 1873 15 1873

ARTICLE X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend any suit in law or equity commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ARTICLE XII.

The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before

HeinOnline -- 1873 16 1873

the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other unconstitutional disability of the president.

The person having the greatest number of votes as vice president shall be the vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the senate shall choose the vice president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States.

ARTICLE XIII.

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Sec. 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Sec. 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature

HeinOnline -- 1873 17 1873

thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of citizens twenty-one years of age in such state.

Sec. 3. No person shall be a senator or representative in congress, or elector of president and vice president, or hold any office, civil or military, under the United States, or under any state, who having previously taken an oath as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of tha United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

Sec. 4. The validity of the public debt of the United States, authorized by law, including the debts incurred for payment of pension and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations, and claims shall be held illegal and void.

Sec. 5. That congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

Sec. 2. Congress shall have power to enforce this article by appropriate legislation.

HeinOnline -- 1873 18 1873

ORGANIC ACT

OF THE

TERRITORY OF MONTANA.

(PUBLIC, No. 76.)

AN ACT to provide a temporary government for the Territory of Montana

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled:

That all that part of the territory of the United States included within the limits, to-wit: Commencing at a point formed by the intersection of the twenty-seventh degree of longitude west from Washington with the forty-fifth degree of north latitude; thence due west on said forty-fifth degree of latitude to a point formed by its intersection with the thirty-fourth degree of longitude west from Washington; thence due south along the said thirty-fourth degree of longitude to its intersection with the forty-fourth degree and thirty minutes of north latitude; thence due west along said forty-fourth degree and thirty minutes of north latitude to a point formed by its intersection with the crest of the Rocky Mountains; thence following the crest of the Rocky Mountains northward till its intersection with the Bitter Root Mountains; thence northward along the crest of said Bitter Root Mountains to its intersection with the thirty-ninth degree of longitude west from Washington; thence along said thirty-ninth degree

HeinOnline -- 1873 19 1873

of longitude northward to the boundary line of the British Possessions; thence eastward along said boundary line to the twenty-seventh degree of longitude west from Washington; thence southward along said twenty-seventh degree of longitude to the place of beginning, be, and the same is hereby created into a temporary government by the name of the Territory of Montana: *Provided*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory or changing its boundaries in such manner and at such times as congress shall deem convenient and proper, or from attaching any portion of said territory to any other state or territory of the United States: *Provided, further*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribes, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any state or territory; but all such territory shall be excepted out of the boundaries, and constitute no part of the territory of Montana, until said tribe shall signify their assent to the president of the United States to be included within said Territory, or to affect the authority of the government of the United States to make any regulations respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the government to make if this act had never passed.

Sec. 2. *And be it further enacted*, That the executive power and authority in and over said territory of Montana shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said Territory and shall be commander-in-chief of the milita and superintendent of Indian affairs thereof. He may grant pardons and respites for offences against the laws of said territory, and reprieve for offences against the laws of the United States, until the decision of the

HeinOnline -- 1873 20 1873

president of the United States can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said territory, and shall take care that the laws be faithfully executed.

Sec. 3. *And be it further enacted*, That there shall be a secretary of said territory, who shall reside therein and hold his office for four years, unless sooner removed by the president of the United States; he shall record and preserve all laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence, semi-annually, on the first days of January and July in each year, to the president of the United States, and two copies of the laws to the president of the senate and to the speaker of the house of representatives, for the use of congress. And in case of the death, removal, resignation, or absence of the governor from the territory, the secretary shall be, and he is hereby authorized and required to execute and perform all the powers and duties of the governor, during such vacancy or absence, or until another governor shall be duly appointed and qualified to fill such vacancy.

Sec. 4. *And be it further enacted*, That the legislative power and authority of the said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of seven members having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of thirteen members, possessing the same qualifications as prescribed for the members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly, from time to time, to twenty-six, in proportion to the increase of qualified voters; and the council, in like manner to thirteen. An apportionment shall be made, as

HeinOnline -- 1873 21 1873

nearly equal as practicable, among the several counties or districts for the election of the council and representatives, giving to each section of the territory representation in the ratio of its qualified voters as nearly as may be. And the members of the council and of the house of representatives shall reside in, and be inhabitants of, the district, or county, or counties, for which they may be elected, respectively. Previous to the first election, the governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the territory to be taken by such persons and in such mode as the governor shall designate and appoint, and the person so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall at the same time declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts, respectively, for members of the council, shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives in each of said representative districts, respectively, shall be declared by the governor to be duly elected members of said house: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election. And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the council and house of representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of commence-

HeinOnline -- 1873 22 1873

ment of the regular sessions of the legislative asembly: *Provided*, That no session in any one year shall exceed the term of forty days, except the first session, which may continue sixty days.

Sec. 5. *And be it further enacted*, That all citizens of the United States, and those who have declared their intentions to become such, and who are otherwise described and qualified under the fifth section of the act of congress providing for a temporary government for the territory of Idaho, approved March third, eighteen hundred and sixty-three, shall be entitled to vote at said first election, and shall be eligible to any office within the said territory; but the qualifications of voters and of holding office at all subsequent elections, shall be such as shall be prescribed by the legislative assembly.

Sec. 6. *And be it further enacted*, That the legislative power of the territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States, nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. Every bill which shall have passed the council and house of representatives of the said territory shall, before it becomes a law, be presented to the governor of the territory. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, who shall enter the objections at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of such houses shall be determined by yeas and nays, to be entered on the journals of each house, respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in

HeinOnline -- 1873 23 1873

like manner as if he had signed it, unless the assembly, by adjournment, prevent its return, in which case it shall not be a law: *Provided*, That whereas slavery is prohibited in said territory by act of congress of June nineteenth, eighteen hundred and sixty-two, nothing herein contained shall be construed to authorize or permit its existence therein.

Sec. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected as the case may be, in such manner as shall be provided by the governor and legislative assembly of the Territory of Montana. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint all officers not herein otherwise provided for, and in the first instance the governor alone may appoint all said officers, who shall hold their offices, until the end of the first session of the legislative assembly, and shall lay off the necessary districts for the members of the council and house of representatives and all other officers.

Sec. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly. And no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly; or shall hold any office under the government of said territory.

Sec. 9. *And be it further enacted*, That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually; and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said territory shall be divided into three judicial

HeinOnline -- 1873 24 1873

districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts, and of justices of the peace, shall be limited by law: *Provided*, That justices of the peace shall not have jurisdiction of any matter in controversy when the title of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exceptions, and appeals shall be allowed in all cases from the final decisions of said district courts to the supreme court, under such regulations as may be prescribed by law. The supreme court, or the justices thereof, shall appoint its own clerk; and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed, and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witnesses, shall exceed one thousand dollars, except that a writ of error or appeal shall be allowed to the supreme court of the United States from the decision of the said supreme court created by this act, or of any judge thereof, or of the district courts created by this act, or of any judge thereof, upon any writs of habeas corpus involving the question of personal freedom. And each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the Constitution and laws of the United States, as is vested in the district and cir-

HeinOnline -- 1873 25 1873

cuit courts of the United States; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said territory the same as in other cases. The said clerks shall receive in all such cases the same fees which the clerks of the district courts of Washington Territory now receive for similar services.

Sec. 10. *And be it further enacted*, That there shall be appointed an attorney for said territory, who shall continue in office four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall receive the same fees and salary as the attorney of the United States for the present Territory of Washington. There shall also be a marshal for the territory appointed, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and districts of the United States. He shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees as the marshal of the district court of the United States for the present Territory of Washington, and shall, in addition, be paid two hundred dollars annually as a compensation for extra services. There shall also be appointed by the president of the United States, by and with the advice and consent of the senate, a surveyor general of said territory, who shall locate his office at such place as the secretary of the interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses shall be the same as those of the surveyor general of New Mexico, under the direction of the secretary of the interior, and such instructions as he may from time to time deem it advisable to give.

HeinOnline -- 1873 26 1873

Sec. 11. *And be it further enacted*, That the governor, secretary, chief justice, and associate justices, attorney and marshal shall be appointed by the president of the United States, by and with the advice and consent of the senate. The governor and secretary to be appointed as aforesaid, shall, before they act as such, respectively take an oath or affirmation before the district judge, or some justice of the peace in the limits of said territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken; and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all civil officers in said territory, before they act as such, shall take a like oath or affirmation before the said governor or secretary, or some judge or justice of the peace of the territory who may be duly commissioned and qualified, or before the chief justice or some associate justice of the supreme court of the United States, which said oath or affirmation shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. And any person who has heretofore been appointed chief justice or associate justice of the Territory of Idaho, who has not yet taken the oath of office, as prescribed by the act organizing said territory, may take said oath or affirmation before the chief justice or some associate justice of the supreme court of the United States. The governor shall receive an annual salary of two thousand five hundred dollars; the chief justice and associate justices shall receive an annual salary of two thousand five hundred dollars; the secretary shall receive an annual salary of two thousand dollars. The said salaries shall be paid quarter-yearly from the dates of the respective ap-

HeinOnline -- 1873 27 1873

pointments at the treasury of the United States; but no payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly shall be entitled to receive four dollars each per day, during their attendance at the sessions thereof, and four dollars each for every twenty miles travel, in going to and returning from said sessions, estimated according to the nearest usually traveled routes; an additional allowance of four dollars per day shall be paid to the presiding officer of each house for each day he shall so preside. And a chief clerk, one assistant clerk, one engrossing and one enrolling clerk, a sergeant-at-arms, and door-keeper may be chosen for each house; and the chief clerk shall receive four dollars per day, and the said other officers three dollars per day during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislative assembly annually, unless on an extraordinary occasion the governor shall think proper to call the legislative assembly together. There shall be appropriated annually the usual sum, to be expended by the governor to defray the contingent expenses of the territory, including the salary of the clerk of the executive department. And there shall also be appropriated annually a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses. And the governor and secretary of the territory shall, in the disbursement of all moneys entrusted to them, be governed solely by the instructions of the secretary of the treasury of the United States, and shall semi-annually account to the said secretary for the manner in which the aforesaid moneys shall have been expended; and no expenditure shall be made by said legislative assembly for objects not specially authorized by the acts of congress making the appropriations, nor beyond the sums thus appropriated for such objects.

Sec. 12. *And be it further enacted*, That the legislative assembly of the Territory of Montana shall hold its first session

HeinOnline -- 1873 28 1873

at such time and place in said territory as the governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government at such place as they may deem eligible: *Provided*, That the seat of government fixed by the governor and legislative assembly shall not be at any time changed, except by an act of the said assembly duly passed, and which shall be approved after due notice, at the first general election thereafter by a majority of the legal votes cast on that question.

Sec. 13. *And be it further enacted*, That a delegate to the house of representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives; but the delegate first elected shall hold his seat only during the term of the congress to which he shall be elected. The first election shall be held at such time and places and be conducted in such manner as the governor shall appoint and direct; and at all subsequent elections the time and places and manner of holding elections shall be prescribed by law. The person having the greatest number of legal votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly. That the Constitution and all the laws of the United States, which are not locally inapplicable, shall have the same force and effect within the said Montana Territory as elsewhere within the United States.

Sec. 14. *And be it further enacted*, That when the lands in said territory shall be surveyed, under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be and the same are hereby reserved for the purpose of being applied to schools in said territory, and in the states and territories hereafter to be erected out of the same.

HeinOnline -- 1873 29 1873

Sec. 15. *And be it furthar enacted*, That, until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or sub-divisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

Sec. 16. *And be it further enacted*, That all officers to be appointed by the president of the United States, by and with the advice and consent of the senate, for the Territory of Montana, who, by virtue of the provisions of any law now existing, or which may be enacted by congress, are required to give security for moneys that may be entrusted to them for disbursement, shall give such security at such time and in such manner as the secretary of the treasury may prescribe.

Sec. 17. *And be it further enacted*, That all treaties, laws, and other engagements made by the government of the United States with the Indian tribes inhabiting the territory embraced within the provisions of this act, shall be faithfully and rigidly observed, anything contained in this act to the contrary notwithstanding; and that the existing agencies and superintendencies of said Indians be continued, with the same powers and duties which are now prescribed by law, except that the president of the United States may, at his discretion, change the location of the office of said agencies or superintendents.

Sec. 18. *And be it further enacted*, That, until congress shall otherwise direct, all that part of the Territory of Idaho included within the following boundaries, to-wit: Commencing at a point formed by the intersection of the thirty-third degree of longitude west from Washington with the forty-first degree of north latitude; thence along said thirty-third degree of longitude to the crest of the Rocky Mountains; thence northward along the said crest of the Rocky Mountains to its intersection with the forty-fourth degree and thirty minutes of north lati-

HeinOnline -- 1873 30 1873

tude; thence eastward along said forty-fourth degree thirty minutes north latitude to the thirty-fourth degree of longitude west from Washington; thence northward along said thirty-fourth degree of longitude to its intersection with the forty-fifth degree north latitude; thence eastward along said forty-fifth degree of north latitude to its intersection with the twenty-seventh degree of longitude west from Washington; thence south along said twenty-seventh degree of longitude west from Washington to the forty-first degree north latitude; thence west along said forty-first degree north latitude to the place of beginning, shall be, and is hereby, incorporated temporarily into, and made part of, the territory of Dakota.

Approved May 26, 1864.

DEPARTMENT OF STATE,
WASHINGTON, May 28, 1864.

A true copy:

W. H. HUNTER, *Chief Clerk.*

(PUBLIC, No. 65.)

AN ACT amendatory of "An Act to provide a temporary government for the Territory of Montana," approved May 26, 1864.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled:

That the legislative assemblies of the several territories of the United States shall not, after the passage of this act, grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits.

Sec. 2. *And be it further enacted,* That the probate courts of the territory of Montana, in their respective counties, in addition to their probate jurisdiction, are hereby authorized to hear and determine civil causes wherein the damage or debt

HeinOnline -- 1873 31 1873

claimed does not exceed five hundred dollars, and such criminal cases arising under the laws of the territory as do not require the intervention of a grand jury: *Provided*, That they shall not have jurisdiction in any matter in controversy when the title or right to the peaceable possession of land may be in dispute or chancery, or divorce causes; *And provided further*, That in all cases an appeal may be taken from any order, judgment, or decree of said probate court to the district court.

Sec. 3. *And be it further enacted*, That the chief justice and associate justices of said territory, and the Territory of Idaho shall each receive an annual salary of thirty-five hundred dollars.

Sec. 4. *And be it further enacted*, That the judges of the supreme court of said territory, or a majority of them, shall, when assembled at the seat of government of said territory, define the judicial districts of said territory, and assign the judges, who may be appointed for said territory, to the several districts, and shall also fix and appoint the times and places for holding the courts in the several counties or sub-divisions in each of said judicial districts, and alter the times and places of holding the courts as to them shall seem proper and convenient, but not less than two terms shall be held at each place of holding court each year.

Sec. 5. *And be it further enacted*, That for the purpose of reviving the legislative functions of the Territory of Montana, which have been adjudged therein to have lapsed, the governor of said territory be, and he is hereby, authorized, on or before the first day of July, eighteen hundred and sixty-seven, to divide said territory into legislative districts for the election of members of the council and house of representatives, and to apportion among said districts the number of members of the legislative assembly provided for in the organic act of said territory, and the election of said members of the legislative assembly shall be held at such time and shall be conducted in the manner prescribed by the legislative assembly of said territory at the session thereof begun and holden at the city of Bannock, in eighteen hundred and sixty-four and eighteen hundred and sixty-five, and the qualifications of voters shall

HeinOnline -- 1873 32 1873

be the same as that prescribed by said organic act, saving and excepting the distinction therein made on account of race or color, and the legislative assembly so elected shall convene at the time prescribed by said legislative assembly at the session last aforesaid. The apportionment provided for in this section shall be based upon such an enumeration of the qualified electors of the said several legislative districts as shall appear from the election returns in the office of the secretary of the said territory, and from such other sources of information as shall enable the governor, without taking a new census, to make an apportionment which shall fairly represent the people of the several districts in both houses of the legislative assembly, but the legislature may at any time change the legislative districts of the territory as fixed by the governor.

Sec. 6. *And be it further enacted*, That all acts passed at the two sessions of the so-called legislative assembly of the Territory of Montana, held in eighteen hundred and sixty-six, are hereby disapproved and declared null and void, except such acts as the legislative assembly herein authorized to be elected, shall, by special act, in each case, re-enact: *Provided, however*, That in all the claims of vested rights thereunder, the party claiming the same shall not, by reason of anything in this section contained, be precluded from making and testing said claim in the courts of said territory; *And provided, further*, That no legislation or pretended legislation in said territory since the adjournment of the first legislative assembly shall be deemed valid until the election of the legislative assembly herein provided for shall take place.

Sec. 7. *And be it further enacted*, That from and after the first day of April next, the salary of each of the judges of the several supreme courts in each of the organized territories (except Montana and Idaho) shall be two thousand five hundred dollars.

Sec. 8. *And be it further enacted*, That all acts and parts of acts inconsistent with this act are hereby repealed.

Approved March 2, 1867.

HeinOnline -- 1873 33 1873

AN ACT regulating the compensation of the members and officers of the Legislative Assemblies of the several territories of the United States, and limiting the duration of the sessions of said assemblies.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled:

That the sessions of the legislative assemblies of the several territories of the United States shall be limited to forty days duration.

Sec. 2. That the members of each branch of said legislatures shall receive a compensation of six dollars per day during the sessions herein provided for, and they shall receive such mileage as now provided by law: *Provided*, That the president of the council and the speaker of the house of representatives shall each receive a compensation of ten dollars per day, and that the additional officers of each branch of said legislative assemblies shall consist of one chief clerk, who shall receive a compensation of eight dollars per day, and one assistant clerk, one enrolling clerk, one engrossing clerk, one sergeant-at-arms, one door-keeper, one messenger, and one watchman, who shall each receive a compensation of five dollars per day during the sessions.

Sec. 3. That from and after the first day of July, eighteen hundred and seventy-three, the annual salaries of the governors of the several territories of the United States shall be three thousand five hundred dollars, and the salaries of the secretaries of said territories shall be two thousand five hundred dollars each.

Sec. 4. That the provisions of this act shall not apply to the District of Columbia; *Provided*, That no law of any territorial legislature shall be made or enforced by which any officer of a territory herein provided for, or the officers or members of any territorial legislature shall be paid any compensation other than that provided by the laws of the United States.

Approved January 23, 1873.

HeinOnline -- 1873 34 1873

LAWS OF MONTANA.

ADMINISTRATORS AND EXECUTORS.

AN ACT in relation to administrators and executors.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That it shall be the duty of all administrators and executors to sell any and all placer or quartz mining ground held by virtue of the laws of this territory, and belonging to the estate, to which no patent has been granted by the United States, of a deceased person, at private sale, without notice and upon such terms as they think best, by first obtaining the consent in writing of all the adult heirs of the deceased, and guardian of all minor heirs residing in the territory, provided such sale shall be approved by the probate court.

Mining claims of deceased persons not patented to be sold.

Consent of heirs and guardian to be obtained when.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Acts repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved May 6th, 1873.

APPROPRIATIONS.

AN ACT making certain appropriations to the Historical Society and to the Territorial Law Library.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Annual appropriations for Montana Law Library.

Section 1. That the sum of two hundred dollars be and the same is hereby appropriated out of any moneys in the treasury not otherwise appropriated, each year, for the purchase of law reports in continuation of the series now in the territorial law library, and such other law books as may be selected by the chief justice and the associate justices of the supreme court, or any two of them.

Annual appropriation for Montana Historical Society.

Sec. 2. That the sum of one hundred and fifty dollars be and the same is hereby appropriated each year out of any money in the treasury not otherwise appropriated, to the Historical Society of Montana, to be expended for the purchase of manuscripts and books illustrating the early history of the region of country now embraced within this territory, and in paying the postage and express charges thereon, and for such necessary printing as its officers may deem necessary to be expended by the president, secretary and librarian thereof.

Auditor to draw warrant in payment.

Sec. 3. That on or before the first day of June, 1873, and each year thereafter before said date, it shall be the duty of the territorial auditor, upon the request of any two justices of the supreme court of the territory, to draw his warrant on the territorial treasurer, payable to their order, or the order of one of them, for the said sum of two hundred dollars, and to deliver to said justices said warrant, and, upon the like request of the officers of the historical society mentioned in section two of this act, or any two of them, to draw his warrant on the territorial treasury for the sum of one hundred and fifty dol-

HeinOnline -- 1873 36 1873

lars, payable to the order of said officers, or any one of them, and deliver the same to them, or some one of them, in pursuance of this act; and, annually thereafter, to draw and deliver like warrants on or before June first of each year, and to deliver the same as herein provided in this section, and according to sections one and two of this act, in like form and with like intent, and payable on like terms as are other warrants on the treasury, provided, that justices of the supreme court and the officers of said society shall, annually, on or before December first of each year hereafter, make to the governor of the territory a report of the expenditures of said money and the condition of the respective libraries, with such suggestions as to their increase and usefulness as may occur to them, with such other information as in their judgment would be of interest to the people of the territory, and which said reports the governor shall transmit to the legislative assembly; and, provided further, that if the said auditor shall see fit, he may, at any time, require security for the faithful application of said moneys so appropriated, and unless the said society shall accept the terms and conditions of this section imposed as to its reports, and signify the same to said auditor within six months from the taking effect of this act, it shall not be entitled to avail itself of the privileges and advantages conferred by this act thereafter.

Warrants to be delivered annually by auditor for same.

Report of officers of society and justices of supreme court to be made annually.

Auditor may require security for proper use of appropriation.

Conditioned that society accept terms, etc.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved May 7th, 1873.

HeinOnline -- 1873 37 1873

ASSESSORS.

AN ACT to legalize the acts of county and district officers.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Acts of assessors and county commissioners declared valid.

Section 1. That all acts performed by district assessors and by county commissioners, in pursuance of an act creating the office of "district assessors," approved January 10th, 1872, be and the same are hereby declared valid and in full force and effect.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved May 3d, 1873.

ASSESSORS.

AN ACT to amend an act re-enacting, revising, and codifying the Statutes of Montana Territory, entitled "Counties and County officers."

Be it enacted by the Legislative Assembly of the Territory of Montana:

Sections repealed.

Section 1. That sections 104, 105, and 106, chapter 21, of an act entitled an act revising, re-enacting, and codifying the general and permanent laws of Montana territory, approved January 12th, 1872, in relation to the election of county assessors, be and the same are hereby repealed.

Not to affect certain county assessors.

Sec. 2. This act shall not affect the acts of county assessors in counties where they have assessed, or have commenced assessing the property in their respective counties, but when such assessment has been made by such assessors it shall be valid, and when they have commenced such assessment they may

HeinOnline -- 1873 38 1873

complete the same, and it shall be a valid assessment.

Sec. 3. This act to take effect from and after its passage.

Approved May 5th, 1873.

CIVIL PRACTICE ACT.

AN ACT to amend certain sections of an act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana, approved January 12th, 1872.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That section five hundred and fifty-seven (557) of an act entitled An act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana, approved January 12th, 1872, be amended by adding thereto the following: Section amended.

If any party shall include in said memorandum any item to which he is not entitled, or if any clerk, sheriff, referee, or other officer shall include such item in the taxed costs, and a motion to retax the same shall be made by the party against whom the same is taxed, and if said motion to retax shall prevail, there shall be taxed, as a part of the cost of such motion, a docket fee of $25, and judgment therefor, with the other costs allowed by law, shall be entered against the party, sheriff, referee, clerk, or other officer who so unlawfully taxed the same, and the same may be offset against any costs, or judgment in favor of the party or officer so improperly taxing said cost, and against the party making said motion; or if no such judgment exists, the court may direct that the said party making said motion have execution therefor. Proceeding when costs are overtaxed and penalty for officer overtaxing

HeinOnline -- 1873 39 1873

Sec. 2. That section 137 of said act be amended by adding thereto the following words: Or upon a judgment rendered against defendant in an action in which there was personal service on the defendant, or in which action he appeared, and that the said judgment is unreversed and unsatisfied in the amount for which the attachment is asked.

Sec. 3. This act shall be in force and take effect from and after its passage.

[The foregoing act having been presented to the governor of the territory on the first day of May, 1873, for his approval, and not having been returned by him to the house of the legislative assembly, in which it originated, within the time prescribed by the organic act of the territory, has become a law without his approval.]

CIVIL PRACTICE ACT.

AN ACT to amend section 563 of an act entitled An act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana, approved January 12th, 1872.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section amended.

Section 1. That section five hundred and sixty-three of an act entitled An act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana, approved January 12th, 1872, be amended so as to read as follows:

Sec. 563. Any person may prosecute an action in any court of this territory who will prove by oral testimony in open court, or to the presiding judge thereof, to his satisfaction:

1st. That he has good cause of action.

HeinOnline -- 1873 40 1873

2d. That by reason of misfortune or bodily infirmity he is unable to pay the cost in money or procure security for the same, and that he has no property or chose in action sufficient to secure the same or any part thereof, but such person shall not be relieved from liability to pay such cost, and the same shall be a lien upon any judgment or property he may recover in such action; and in all cases the question of permitting a party to prosecute without prepayment of cost shall be left to the sound discretion of the court, and the granting or refusing permission shall not be matter upon which error can be assigned, but if such party shall make an affidavit of the above facts and file the same with the clerk, it shall be the duty of all officers to discharge their official duties in said cause without prepayment of costs until the motion for security for costs is determined.

Right of poor person to prosecute suit, given.

Question of prepayment of costs left to court.

Sec. 2. All acts or parts of acts conflicting herewith are hereby repealed.

Sec. 3. This act shall be in force from and after its passage.

Approved April 29, 1874.

CIVIL PRACTICE ACT.

AN ACT to amend section two hundred and two, of an act entitled "An Act to regulate preceedings in civil cases in the courts of justice of the Territory of Montana," approved January 12, 1872.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That section 202, of an act entitled "An Act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana,"

Section amended.

HeinOnline -- 1873 41 1873

approved January 12, 1872, be amended so as to read as follows:

Order in which trials shall proceed.

Sec. 202. When the jury has been sworn, the trial shall proceed in the following order, unless the court, for good cause and special reasons, otherwise directs.

Party on whom burden rests to state case.

First. The party on whom rests the burden of the issue may briefly state his case, and the evidence by which he expects to sustain it.

Adverse party may state case.

Second. The adverse party may then briefly state his defense, and the evidence he expects to offer in support of it.

Party having burden first to give proof, then the adverse party.

Third. The party on whom rests the burden of proof must first produce his evidence; the adverse party will then produce his evidence.

Parties confined to evidence.

Fourth. The parties shall then be confined to rebutting evidence, unless the court, for good reason in furtherance of justice, permits them to offer evidence in their original case.

Instructions of court.

Fifth. When the evidence is concluded, and either party desires special instructions to be given to the jury, such instructions shall be reduced to writing and delivered to the court.

Sixth. When the argument of the cause is concluded, the court shall give such instructions to the jury as shall be necessary, which shall be in writing, if so requested by either party, and which instructions, together with the pleadings, shall be given to the jury when they shall retire, upon the request of the parties.

Court to give or refuse instructions.

Seventh. Where either party asks special instructions to be given to the jury, the court shall either give such instructions as requested, or positively refuse to do so, or give the instructions with a modification, and shall mark or endorse upon each instruction so offered, in such manner that it shall distinctly appear what instructions were given, in whole or in part, and in like manner those refused,

HeinOnline -- 1873 42 1873

so that either party may except to the instructions as given, or refused, or modified, or to the modification.

All instructions given by the court must be filed, together with those refused, as a part of the record. Instructions given and refused, filed with the record

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 3. This act shall take effect from and after its passage.

Approved May 3, 1873.

CRIMINAL PRACTICE ACT.

AN ACT to amend section one hundred and seventeen, chapter seven, of an act entitled "Criminal Practice Act," approved January 12, 1872.

Be it enacted by the Legislative Assembly of the Territory of Montana.

Section 1. That section one hundred and seventeen, of an act entitled "Criminal Practice Act," approved January 12, 1872, be amended so as to read as follows: Section amended.

Sec. 117. The grand juries shall consist of sixteen persons, one of whom shall be appointed foreman by the court. Number of grand jury established.

Sec. 2. That said original section one hundred and seventeen, and all acts or parts of acts in conflict herewith, are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved May 7, 1873.

HeinOnline -- 1873 43 1873

CRIMINAL PRACTICE ACT.

AN ACT to amend section four hundred and fifty-nine of the Criminal Practice Act, approved January 12th, 1872.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section amended.

Section 1. That section 459 of the Criminal Practice Act, approved January 12th, 1872, be amended so as to read as follows:

Sec. 459. In all cases in which the governor is authorized by law to grant pardons, he may grant the same on such conditions, terms and restrictions as he may deem proper, and if the person so pardoned shall violate such conditions, or terms, or disregard such restrictions, the governor shall have the power and it shall be his duty, to revoke such pardon. And such violation of the conditions, terms or restrictions, or any part thereof, shall be considered an escape and fraud, and the governor shall issue his warrant, directed to the sheriff of the county where the person so pardoned may be, commanding him to re-arrest such person and commit him to the penitentiary or prison in which he was confined prior to such pardon, to serve out the balance of the term for which he may have been sentenced. And such sheriff shall receive such fees out of the territorial treasury as are allowed by law to sheriffs for serving warrants and commitments, and the auditor shall draw his warrant on the general fund for such fees on the treasurer, on presentation of a certificate from the governor that the same is correct.

Governor may grant pardons on conditions.

Violation of condition governor to revoke pardon.

Violation of conditions deemed escape; convict to be re-arrested.

Fees of sheriff under this act.

Sec. 2. Section 459 of said act is hereby repealed.

Sec. 3. This act shall take effect immediately.

Approved May 8th, 1873.

HeinOnline -- 1873 44 1873

CRIMINAL PRACTICE ACT.

AN ACT relating to the trial of crimials for certain offences.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That upon the trial of any person charged with a felony, the court, in its discretion, at any time after the jury shall have been sworn, to try the same, may order the defendant into custody of the sheriff until the final determination of the same; notwithstanding such defendant may have given bail to answer such charge.

In case of felony, after jury sworn, court may order defendant in custody notwithstanding bail.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved May 8th, 1873.

CRIMINAL LAWS.

AN ACT to punish prisoners for breaking, escaping, or attempting to break or escape from the penitentiary or other prisons, or assaulting the keepers thereof.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. If any prisoner confined in the penitentiary of this territory shall assault the warden, or any under keeper, guard, or other officer of said penitentiary, or shall escape, or attempt to escape therefrom, or enter into any conspiracy for the purpose of effecting an escape therefrom, such person, upon conviction thereof, shall be sentenced by the court to the same term of imprisonment in the penitentiary for which such person was originally sentenced, to commence from the expiration of the

Prisoner attempting to break jail or escaping, punished.

Penalty therefor.

HeinOnline -- 1873 45 1873

original term of imprisonment, except when the original sentence was imprisonment for life.

Person guilty to be sentenced to the penitentiary.

Sec. 2. If any person confined in any jail in any county in this territory shall break such jail, or escape therefrom, or attempt so to do, or shall break or destroy the furniture of such jail, or shall assault any keeper of such jail, such person, on conviction thereof, shall be imprisoned in the penitentiary, at hard labor, for a time not exceeding three years, nor less than one year.

Printed copy of this act to be posted in penitentiary and each jail.

Sec. 3. It shall be the duty of the warden of the penitentiary, and the keeper of any county jail in this territory, to post up in the cells of the penitentiary and county jails, respectively, a printed copy of the above law, printed in large letters so as to be easily read.

Sec. 4. This act shall take effect and be in force from any after its passage and approval by the governor.

Approved May 8, 1873.

CRIMINAL LAWS

AN ACT to prevent parties from shooting within the limits of towns and private enclosures.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Unlawful to fire gun, pistol, etc., in limits of city or town.

Section 1. That it shall be unlawful for any person to fire any gun, pistol or any fire-arm, of whatever description, within the limits of any town, city, or village in this territory, or within the limits of any private enclosure which shall contain a dwelling house.

Penalty therefor.

Sec. 2. All persons violating this act shall be fined in any sum not less than five, nor more than twenty-five, dollars.

HeinOnline -- 1873 46 1873

Sec. 3. That all fines collected under the provisions of this act shall be paid into the county treasury, for the benefit of the school fund. Fines under this act to go to school fund.

Sec. 4. This act shall take effect from and after its passage.

Approved April 26th, 1873.

COUNTY FINANCE.

AN ACT to repeal section two of chapter twenty-seven, of an act entitled " An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory," approved January 12th, 1872, on page 479.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That section 2, of chapter 27, of an act entitled " An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory," approved January 12th, 1872, be, and the same is hereby, repealed. Section 2, concerning county finances, repealed.

Sec. 2. This act shall take effect from and after its passage.

Approved April 30th, 1873.

HeinOnline -- 1873 47 1873

DISTRICT ATTORNEY.

AN ACT to amend section one of an act entitled an act creating the office of district attorney in each of the organized judicial districts of Montana Territory.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section amended.

Section 1. That section one of an act entitled An Act creating the office of district attorney in each of the organized judicial districts of Montana Territory be amended so that it read as follows:

Election of district attorney.

Section 1. There shall be elected, at the next general election, and every two years thereafter, a district attorney for each of the organized judicial districts, as they shall be established at the time of such election. They shall hold their office for the term of two years, and until their successors are elected or appointed by law.

Sec. 2. This act to take effect from and after its passage.

Approved April 28th, 1873.

ELECTIONS.

AN ACT to amend section one of chapter twenty-three of an act revising, re-enacting and codifying the general and permanent laws of Montana Territory, approved January 12th, 1872.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section of election law amended.

Section 1. That section one of chapter twenty-three of an act entitled An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory, approved January 12th, 1872, be amended by inserting after the word " years," in

HeinOnline -- 1873 48 1873

the second line of said section, as published in the Codified Statutes, the following: "And all persons of the same age, who shall have declared their intention of becoming such citizens."

Sec. 2. All acts and parts of acts in conflict with this act be, and the same are hereby repealed.

Sec. 3. That this act shall take effect and be in force from and after its passage.

[The foregoing act having been presented to the governor of the territory for his approval, was, on April 25th, 1873, returned to the house in which it originated, without his approval, and with his objections thereto; the objections were entered at large upon the journal of the house, the vote by which the bill was passed was reconsidered, and on the question, "Shall this bill pass, the objections of the governor to the contrary notwithstanding?" it was passed by a two-thirds vote of the house. The act was then immediately sent to the council, together with the objections of the governor; the vote by which the act was passed in the House was then reconsidered, and upon the question, "Shall this bill pass, the objections of the governor to the contrary notwithstanding?" it was also passed by a two-thirds vote of the council.]

ESTRAYS AND LOST GOODS.

AN ACT to repeal "An Act concerning estrays and lost goods."

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That chapter twenty-four of "An Act revising, re-enacting and codifying the general and permanent laws of Montana Territory," ap-

Chapter 24, concerning estrays, etc., repealed.

HeinOnline -- 1873 49 1873

proved January 12th, 1872, be and the same is hereby repealed.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved May 5th, 1873.

FEES.

AN ACT to establish and regulate the fees of Sheriffs in the Territory of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That it shall be lawful for sheriffs to demand and receive the following fees:

Fees of sheriff established.

For transporting prisoners, per mile, including diet and all expenses, fifty cents; for summoning jurors, each, fifty cents; for serving summons, including copy of complaint and summons on first party, seventy-five cents; for serving subpœna and copy, each witness, fifty cents; for advertising property for sale, one dollar and fifty cents; for every mile necessarily and actually traveled, twenty cents; for serving and returning *scire facias* one dollar; for committing or discharging prisoner, to or from jail, fifty cents; for dieting prisoners, per day, not less than one dollar and fifty cents, nor more than two dollars and fifty cents, to be regulated by the county commissioners; attending before any judge with prisoner on writ of *habeas corpus*, one dollar; for serving writ of possession, with aid of *posse comitatus*, five dollars; for serving the same without such aid, two dollars; for attending district court, per day, three dollars; for attending probate court, by order of court, per day, one dollar and fifty

HeinOnline -- 1873 50 1873

cents; for serving execution or attachment, one dollar; for executing and acknowledging deed of sale of real estate, three dollars; for making certificate of sale, previous to execution of deed, one dollar; for taking replevin, forthcoming, or other bond, one dollar; for executing *capias*, or warrant in criminal cases, one dollar; for serving declaration in ejectment, and proper return, for each defendant, one dollar.

For commissions on money collected without sale, by the sheriff, one all sums under five hundred dollars, two per cent.

On any sum between five hundred and one thousand dollars, he shall be allowed on the first five hundred dollars two per cent, and one and one-half per cent on all such other sum, and on all sums over one thousand dollars he shall be allowed, in addition to the per centage on the first one thousand dollars, one per cent.

Commissions on money collected by sale, by sheriff, on any sum under one thousand dollars, two per cent.

On any sum over one thousand dollars and up to five thousand, he shall receive two per cent for the first one thousand dollars, and one per cent on all such additional amount.

On all sums over five thousand dollars he shall receive the fees above allowed for five thousand dollars and one-fourth of one per cent on all such additional amounts.

Sec. 2. That as much of chapter nineteen of an act entitled An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory, approved January 12th, 1872, as relates to the fees of sheriff, and all other acts and parts of acts relating to the fees of sheriff, be and the same is hereby, repealed.

Approved April 28th, 1873.

HeinOnline -- 1873 51 1873

FEES.

AN ACT to establish and regulate the fees of county clerk and recorder.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. The county clerk shall be entitled to receive the following fees:

Fees of county clerk established.

For like service the same fees as the clerk of the district court, except as specially herein provided.

For recording the proceedings of the board of county commissioners, for each folio of one hundred words, twenty-five cents; for issuing one warrant for each account allowed by commissioners, five cents; each additional warrant issued on the same account, to be paid by the party requiring the same to be divided, ten cents; issuing, numbering and countersigning, with stub attached thereto, each, five cents; for taking proof in case of estray, and certificate of same, one dollar; advertising, including copy for newspaper publication, one dollar and fifty cents; each certificate and seal, one dollar; canceling each warrant and entering the same, five cents; for making out poll-books, for each precinct, two dollars; for making abstract of election returns, for each folio, twenty cents.

For any other service required by law, and not herein provided for, such compensation as the board of county commissioners may allow: *Provided*, no per diem shall be allowed for attendance on the board of county commissioners.

Sec. 2. The county recorder shall be entitled to the following fees, to-wit:

For filing and recording each instrument of writing allowed by law to be recorded, for first folio one hundred words, fifty cents; for each additional folio, thirty cents; for each entry in index, fifteen

HeinOnline -- 1873 52 1873

cents; certificate of record of title, seventy-five cents; recording marriage certificate, one dollar; acknowledgment, certificate, and seal, one dollar; for copies of record, per folio, twenty cents; for each search of record, twenty-five cents; abstract of title—first conveyance, seventy-five cents; for each subsequent conveyance, forty cents; abstracts from original entries, each, seventy-five cents; record of quartz claim, three dollars.

All other services required by law, not otherwise provided for, to be regulated by the board of county commissioners.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed. Acts repealed.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved April 29th, 1873.

FEES.

AN ACT to establish and regulate the fees of witnesses, jurors, and certain officers of Montana Territory.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That every juror and witness attending in his own county in any court of record, or before a commissioner or referee, shall receive for such service and attendance per day, three dollars; for mileage in going to and returning, per mile, twenty cents. *Provided*, That no per diem shall be allowed to special jurors summoned, who shall not serve in the trial of a cause, and are not required to remain in attendance on the court. Fees of witnesses and jurors.

HeinOnline -- 1873 53 1873

Sec. 2. That the fees of constables shall be the same as those allowed the sheriffs for like services.

Fees of constables.

Sec. 3. That each judge and clerk of election shall be entitled to receive three dollars ($3) per day, for each day's services as such judge or clerk, to be paid out of the county treasury.

Fees of judge and clerk of election.

Sec. 4. That each messenger conveying election returns to the clerk of the county shall be entitled to the same per diem as the judges and clerks of the election, and fifteen (15) cents per mile for the distance necessarily traveled in going to and returning from the office of the said county clerk.

Fees of messenger of election returns.

Sec. 5. That all acts and parts of acts in conflict with this act be and the same are hereby repealed.

Acts repealed.

Sec. 6. This act shall take effect and be in force from and after its passage.

Approved April 29th, 1873.

FEES.

AN ACT to establish and regulate the fees of the clerk of the district court.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. It shall be lawful for the clerk of the district court to demand and receive for his services the following fees:

Fees of clerk of district court established.

For filing each paper required by law to be filed, ten cents; for issuing summons or other process of court, not otherwise provided for, seventy-five cents; for issuing subpœna, for the first person named therin, fifty cents; for each additional name, ten cents; taking and approving each bond, seventy five cents; opening each deposition, twenty-five cents; docketing judgment for each judgment debtor, fif-

HeinOnline -- 1873 54 1873

teen cents; for indexing each party to suit, twenty cents; for entering each order, default or rule of court, for first folio, twenty-five cents; for each additional, fifteen cents; discontinuance or non-suit, fifty cents; for each dedimas to take depositions, one dollar; for swearing jury on voir dire, fifty cents; for each additional juror, ten cents; for swearing each witness, fifteen cents; for calling jury each time, fifteen cents; for swearing jury to try cause, twenty-five cents; for entering each judgment, forty cents; for entering each cause on bar judge's calendar, twenty-five cents; for entering each decree, per folio, twenty cents; for each writ of *habeas corpus*, *certiorari* or proceedings, one dollar; for issuing writ of injunction, *quo warranto* or *mandamus*, one dollar and fifty cents; for entering special bail of record in each case, twenty-five cents; for swearing officer to take charge of jury, twenty-five cents; for entering appearance of attorney, fifteen cents; for issuing execution and docketing the same, one dollar; for extending sheriff's return on execution, thirty cents; for entering on record the report of commissioners, referees, or the reward of arbitrators and all other special entries, per folio, twenty cents; for certificate and seal, seventy-five cents; for attachment for witness or other persons, seventy-five cents; for issuing *venire facias*, seventy-five cents; for entering each bill of costs, twenty-five cents; for taking depositions, per folio, fifteen cents; for taking acknowledgment to conveyance, one dollar; for filing and recording declaration of intention to become citizen, one dollar and fifty cents; for final naturalization papers, three dollars; for taking recognizance in court, fifty cents; for arraigning prisoner at bar, twenty-five cents; for making judgment roll, including copies of all orders and judgments, seventy-five cents; for entering discharge of recognizance, twenty-five cents; for each

HeinOnline -- 1873 55 1873

entry in register of actions, ten cents; for report on each case referred to clerk, one dollar and fifty cents; for each copy of jury in criminal case, when requested by attorneys, twenty-five cents; for certifying the attendance of each juror, witness, to board of county commissioners, ten cents; for making transcript on appeal for supreme court, per folio, twenty cents; for making copies of complaints, in indictments, and all other papers or pleadings on file, per folio, fifteen cents; for recording indictments, per folio, fifteen cents; for entering satisfaction of judgment, forty cents.

For all services required by law for which fees are not provided herein, the clerks shall receive such compensation as may be allowed by the court and county commissioners, and such allowance shall be on the basis of the above fees.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved April 29th, 1873.

HeinOnline -- 1873 56 1873

FEES.

AN ACT to regulate and establish the fees of county treasurer.

Be it enacted by the Legislative Assembly of the Territory of Montana :

Section 1. The county treasurer shall be entitled to the following fees and per centage on money collected: Twelve and one-half per cent on the first three thousand dollars; ten per cent on the amount between three and four thousand dollars; six per cent on the amount between four and five thousand dollars; four per cent on all sums over five thousand dollars, and under ten thousand dollars; three per cent on all sums over ten thousand dollars; four per cent for receiving or paying out all moneys other than taxes and school funds; for every mile traveled in going to or returning to make settlements with territorial auditor and treasurer, thirty cents per mile; for issuing each license, fifty cents, to be paid by the party to whom issued: *Provided, however*, That if the fees and per centage of such treasurer and collector exceed the sum of twenty-five hundred dollars per year, he shall pay all such sums in excess of twenty-five hundred dollars into the county treasury for the benefit of the contingent fund; nor shall any treasurer, whose fees and per-centage exceed said sum in one year, be entitled to any part of one year to a greater compensation than at the rate of twenty-five hundred dollars per year; and it shall be the duty of the county treasurer now in office, at the end of each year commencing from the time this act goes into effect, to make a full statement of all fees and per centage collected by him to the board of county commissioners, and all treasurers hereafter appointed or elected shall make such statement at the end of each year, commencing the first day of their term of office.

Fees of county treasurer established.

HeinOnline -- 1873 57 1873

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after June 1st, A. D. 1872.

Approved April 30th, 1873.

FEES.

AN ACT to establish and regulate the fees of justices of the peace in Montana Territory.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. Justices of the peace shall receive the following fees for the following services:

Fees of justices of the peace established.

Docketing each case, twenty cents; issuing summons, one person, twenty-five cents; each additional person, fifteen cents; order of arrest, twenty-five cents; attachment for contempt, twenty-five cents; issuing attachment for one person, fifty cents; each additional, twenty-five cents; mittimus, fifty cents; writ of replevin, affidavit and bond for same, one dollar; subpœna for one person, twenty-five cents; each additional person, fifteen cents; venire, fifty cents; execution, fifty cents; writ of restitution or re-restitution, fifty cents; warrant for one person, in criminal cases, fifty cents; each additional person, twenty-five cents; order on jailor for person or persons, twenty-five cents; writ of forcible entry and detainer, or forcible detainer, fifty cents; for any other required by law, fifty cents; enter adjournments on docket, twenty-five cents; enter judgment, twenty-five cents; discontinuance, or satisfaction of judgment, twenty-five cents; transfer judgment on docket, twenty-five cents; appointing guardian *ad*

HeinOnline -- 1873 58 1873

litem, twenty-five cents; taking and entering verdict, twenty-five cents; each motion decided by justice, twenty-five cents; making up docket, drawing certificates and affidavits, per folio, twenty cents; each oath administered in case, ten cents; certifying depositions, transcript of docket entries, copies of pleadings, or writings on file, not otherwise provided, per folio, twenty cents; filing each paper required by law, ten cents; taking and approving each bond or undertaking, fifty cents; appointing special constable, twenty-five cents; appointing appraiser, twenty-five cents; certified copies of appraisement, twenty-five cents; acknowledge deeds or other instruments, each person, fifty cents; taking depositions per folio, twenty cents; entering an appeal, twenty-five cents; transmitting papers on appeal to appellate court, twenty-five cents; for performing duties of coroner, same as coroner, trying each case, two dollars; marrying and making returns as required by law, ten dollars; issuing commission to take testimony in any civil case, one dollar.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed.

Sec. 3. This shall take effect and be in force from and after its passage.

Approved May 1st, 1873.

HeinOnline -- 1873 59 1873

FEES.

AN ACT to establish and regulate the fees of assessors, coroners, and other officers in the Territory of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana :

Fees of assessors established.

Section 1. That the assesssors of each county shall be entitled to receive from their respective counties, as fees, a per centage of the assessed valuation returned by them (subject to all reductions made by the board of equalization) of not less than one-half of one mill on the dollar, nor more than one and one-half mill on the dollar, as the board of county commissioners, in the respective counties, may deem just.

And the above officers shall receive no other compensation than is above specified.

Fees of coroner.

Sec. 2. That the fees of coroner shall be as follows:

For each day on inquest, five dollars; for all other services, the same fees as are allowed by law to other officers for like services.

Fees of notary public.

Sec. 3. That the fees of notaries public shall be as follows:

For noting a bond, bill of exchange, or promissory note for protest, one dollar; for each protest and record of same, one dollar; for each notice of protest, one dollar; for each certificate and seal, one dollar; for all other cases the same as allowed to justices of the peace for like services.

Acts repealed.

Sec. 4. That all acts and parts of acts conflicting with this act be, and the same are hereby, repealed.

Sec. 5. That this act shall take effect and be in force from and after its passage.

Approved May 2d, 1873.

HeinOnline -- 1873 60 1873

FEES.

AN ACT to regulate and establish the fees of probate judge and clerk thereof.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. The judge of the probate court shall receive the following fees in probate matter:

Fees of judge and clerk of probate court established.

For appointing executors, administrators, guardians, or trustees, one dollar and fifty cents; for granting letters testamentary or of administration, affixing seal thereto, and recording the same, one dollar and fifty cents; administering oath to each executor or administrator, twenty-five cents; for each certificate, one dollar; taking proof of a codicil, credit proved substantially, two dollars and fifty cents; endorsing certificates of probate on codicil, thirty cents; recording any will, codicil, or other paper not herein otherwise provided, per folio, twenty cents; examining and approving each inventory, sale bill, or account current, filed by executor or administrator, two dollars and fifty cents; entering the settlement of executors and administrators on the order book, two dollars; each copy of the settlement of executors or administrators with certificate and seal, one dollar and fifty cents; for each decree limiting the time for exhibiting the claims of creditors, fifty cents; for each order of distribution, seventy-five cents; for copies of exemplifications of records, per folio, twenty cents; official certificate and seal, one dollar; making out an order for publication, fifty cents; for allowing an appeal to district court, forty cents; for issuing each special writ or summons with seal, one dollar and fifty cents; for administering oath to each witness, twenty-five cents; for swearing any person to affidavit and certificate thereof, fifty cents; issuing

HeinOnline -- 1873 61 1873

subpœna under seal, one dollar; enter each order, decree of judgment, seventy-five cents; filing paper belonging to the settlement of any estate, twenty-five cents; issuing letters of guardianship or trusteeship, one dollar and fifty cents; taking and approving bond of guardianship or trustee, one dollar and twenty-five cents; taking any bond not hereinbefore specified, one dollar; revoking letters testamentary, guardianship, or trusteeship, one dollar; swearing each jury, forty cents; taking acknowledgments of instruments of writing, one dollar; every original writ under seal not otherwise provided for, one dollar and fifty cents; precept for jury, one dollar; taking verdict, forty cents; allowing or disallowing demand against an estate, two dollars; every continuance, fifty cents; deciding each motion, fifty cents; solemnizing marriages, ten dollars; for all civil cases and other than probate matters, the same fees as are allowed to clerks of district court in similar cases; for trying each case, three dollars.

Acts repealed.

Sec. 2. All acts and parts of acts in conflict herewith are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage and approval by the governor.

Approved May 3d, 1873.

HeinOnline -- 1873 62 1873

FEES.

AN ACT to establish and regulate the fees of district attorneys and other officers in the Territory of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That the district attorneys of each of the judicial districts established by law shall be entitled to demand and receive for services performed by them the following fees: Fees of district attorney established.

For collections for territory or county, on all sums under five hundred dollars, ten per cent; on all sums over five hundred dollars, five per cent; for conviction of misdemeanor, when the attorney appears in person or by deputy, ten dollars; for conviction of felony twenty dollars; for conviction in capital cases, one hundred dollars; for per diem for each day necessarily employed in attending causes on change of venue, ten dollars; docket fees in all civil cases not above specified, where the district attorney is required to defend or prosecute in the district court, fifteen dollars; mileage for every mile necessarily and actually traveled to attend district court, to be paid out of territorial treasury, upon the certificate of the judge of district court, twenty cents; salary per annum, payable quarterly out of the territorial treasury, out of any moneys not otherwise appropriated, one thousand dollars; for drawing each indictment, ten dollars: *Provided*, That no fee shall be allowed for drawing any indictment that may be quashed. The above fees to be taxed as costs in cases. Salary of district attorney.

Sec. 2. That the county superintendent of common schools shall be entitled to receive a salary of not less than a sum equal to (75) seventy-five cents, nor more than ($1.50) one dollar and fifty cents for each school census scholar in his county, as may be deemed proper by the county commissioners, and reasonable traveling expenses, not to exceed ten dol- Salary of county superintendent of schools.

HeinOnline -- 1873 63 1873

lars per district, to be estimated and allowed by the board of county commissioners, which shall be paid quarterly out of the county general fund, in the same manner as other county officers are paid; and he shall be allowed, in addition, a sum for postage and expressage, payable out of the county school fund, equal to one dollar for each school district in his county.

Acts repealed.

Sec. 3. That all acts and parts of acts in conflict with this act be and the same are hereby repealed.

Sec. 4. That this act shall take effect and be in force from and after its passage.

Approved May 3, 1873.

FEES.

AN ACT in relation to the payment of fees.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Officer receiving fees to keep list posted in office.

Section 1. Each officer in this territory receiving any fees shall cause a list thereof, specifying each item, and the sum allowed by law for each, to be posted in his office.

Amount and items of fees on every process.

Sec. 2. No officer serving any process shall be entitled to any fees for the same, unless he returns on such process the amount of his fees, and the items thereof, and charge for each.

Certified bill of when furnished.

Sec. 3. Any person liable for any costs or fees shall be entitled to receive, on demand, a certified bill of the same, in which the items of service, and the charges therefor, shall be specifically stated.

Receipt given on payment, if demanded.

Sec. 4. Every officer charging fees shall, if required by the person paying the same, give a receipt for the same, setting forth the items, the date of each, and the sum charged therefor.

HeinOnline -- 1873 64 1873

Sec. 5. This act shall take effect and be in force from and after its passage and approval by the governor.

Approved May 8, 1873.

FOLIO.

AN ACT defining the word "Folio," when used in acts relating to the regulation of fees.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That the term "Folio," as used in acts relating to regulation of fees, shall be construed to mean one hundred words, counting two figures as one word, and any portion of a folio, where the whole paper shall contain less than a folio, or where such portion shall be in excess over the last folio, shall be deemed a folio. The word "Folio" defined.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved April 29, 1873.

FUNDING INDEBTEDNESS.

AN ACT to authorize the territorial treasurer to issue bonds.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That the treasurer of the Territory of Montana is authorized to issue bonds of the Territory of Montana for the balance of the territorial warrants not presented as provided for in section one, of an act to provide for the funding of the debt of Montana territory (page 578 of codified statutes), Territorial tresurer authorized to issue certain bonds.

HeinOnline -- 1873 65 1873

Provisions as to date of same.

and that the said bonds shall date as provided in said act, on the first day of June, 1872: *And provided, further*, That the said bonds shall not exceed in amount the sum of six hundred dollars.

Limitation as to amount.

Sec. 2. This act shall be in force from and after its passage and approval.

Approved May 1st, 1873.

GAME.

AN ACT to provide against the killing of game and catching of fish, and to repeal an act entitled "An Act relating to the Killing of Game and Catching of Fish," approved January 2d, 1872.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Unlawful to kill certain game between first of February and fifteenth of July in each year.

Section 1. That any person or persons who shall wilfully shoot, or otherwise kill, or cause to be killed, any mountain buffalo, moose, elk, black tail deer, white tail deer, mountain sheep, rocky mountain goat, antelope, or hare, between the first day of February and the fifteenth day of July of each year, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than twenty-five (25) dollars, nor more than one hundred (100) dollars for each offence committed.

Penalty therefor.

Unlawful to kill certain game between first of March and fifteenth of July in each year.

Sec. 2. That any person or persons who shall wilfully shoot, or otherwise kill, or cause to be killed, any grouse, prairie chicken, pheasant, foolhen, partridge, or quail between the first day of March and the fifteenth day of July, of each year, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than five (5) dollars nor more than twenty-five (25) dollars for each offence committed.

Penalty therefor.

HeinOnline -- 1873 66 1873

Partridge, quail or singing bird not to be killed for three years.

Sec. 3. For the next three years, from May first, A. D. eighteen hundred and seventy-three, it shall be unlawful for any person or persons to wilfully kill, or caused to be killed, or destroyed in any manner whatever, any partridge or quail, robin, meadow lark, thrush, gold-finch, or any other of the small birds commonly known as singing birds, within this territory, and, upon conviction thereof, any person or persons so convicted shall be fined in any sum not less than five (5) dollars nor more than twenty-five (25) dollars for each offence committed.

Penalty therefor.

Possession of dead body presumption of guilt.

Sec. 4. That the possession of the dead bodies, or any part thereof, of any of the animals or birds mentioned in this act, by any person or persons, shall be taken as *prima facia* evidence that such person or persons are guilty of killing the same.

Defines lawful way in which fish may be taken.

Sec. 5. That a fishing tackle, consisting of a rod or pole, line and hook, or spear, shall be the only lawful way that fish can be taken in any of the streams of this territory.

Hook not to be baited with poison.

Sec. 6. That said hook shall not be baited with any drug or substance poisonous to any kind of fish.

Fish traps forbidden.

Sec. 7. That it shall be unlawful for any person or persons in the Territory of Montana to make any dams, or use any fish traps, or any similar means of catching fish, or to use any drug, poison, or giant powder, or explosive compound intending to catch, kill, or destroy any species of fish.

Penalty for violating sections six and seven.

Sec. 8. Any person or persons, company or corporations offending against sections five, six, and seven of this act, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than fifty (50) dollars nor more than two hundred (200) dollars for each offence committed.

Sec. 9. That all fines mentioned in any section of this act shall be recovered, with costs of suit, in

HeinOnline -- 1873 67 1873

civil actions, in the name of the Territory of Mon-
Fines, how recovered. tana, before any court having competent jurisdic-
One-half of all fines so collected shall be paid into the county treasury for the benefit of the common schools of the county in which the offence was com-
Fines, how disposed of. mitted, and one-half shall be paid to the person or persons informing the nearest magistrate that such offence has been committed. All such fines and costs shall be collected without stay of execution,
Fines collected without stay of execution. and such defendant or defendants may, by order of the court, be confined in the county jail until such fine and costs are paid.

Sec. 10. That it shall be the duty of the grand jury to diligently seek out and investigate all infrac-
Duty of grand juries to inquire of violation of this act, and indict offender. tions of any provision or provisions of this act (except such cases and infractions as may have been already tried before some court having competent jurisdiction), and, upon due proof of the infraction of any of the said provisions, they shall proceed to indict such party or parties according to law.

Sec. 11. An act relating to the killing of game
Act repealed. and catching of fish, approved January 2d, 1872, be and the same is hereby repealed.

Sec. 12. That this act shall take effect and be in force from and after its passage.

Approved May 2d, 1873.

HeinOnline -- 1873 68 1873

HURDY HOUSES.

AN ACT prohibitiug the establishment and conducting of dancing saloons and hurdy houses in the Territory of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That from and after the passage of this act it shall be unlawful for any person or persons, within the Territory of Montana to conduct or establish, or cause to be conducted or established, any dancing saloon or hurdy gurdy house. Dancing saloon and hurdy house prohibited.

Sec. 2. Any person or persons offending against the provisions of this act shall, upon conviction, be adjudged guilty of a misdemeanor, and shall be fined in any sum not exceeding one hundred dollars. Penalty for violating this act.

Sec. 3. This act shall be in force and take effect from and after its passage.

Approved April 28th, 1873.

INTOXICATING LIQUORS.

AN ACT to repeal an act entitled "An Act to provide against evils resulting from the sale of intoxicating liquors in the Territory of Montana, and for other purposes," approved January 12th, 1372.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That any person who shall sell or give intoxicating liquors to any man or woman who is in the habit of becoming drunk or intoxicated, or of drinking intoxicating liquors to excess, after being notified of such habit, or coming to a knowledge thereof, or who shall sell or give intoxicating liquors Liability of person furnishing intoxicating liquors to drunkard or minor.

HeinOnline -- 1873 69 1873

to any minor, without the consent of the parent or guardian of such minor, shall be liable in damages to any person who may be injured thereby, in money, property, or means of support, and such person so selling or giving intoxicating liquors as aforesaid, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding fifty dollars, or by imprisonment in the county jail not exceeding thirty days, or both such fine and imprisonment, in the discretion of the court.

Married woman may sue for damages.

Sec. 2. Any married woman may sue in her own name, and a minor, by guardian or next friend, for the purpose of recovering the damages named in section one of this act, and costs of suit.

Act repealed.

Sec. 3. That an act entitled "An Act to provide against the evils resulting from the sale of intoxicating liquors in the Territory of Montana, and for other purposes," approved January 12th, 1872, be hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved April 30th, 1873.

JURORS.

AN ACT to amend section eight of chapter thirty-seven of an act entitled, "An Act revising, re-enacting and codifying the general and permanent laws of Montana territory," approved January 12th, 1872.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section amended.

Section 1. That section eight of chapter thirty-seven of an act entitled, "An act, revising, re-enacting and codifying the general and permanent laws of Montana territory," approved January 12th, 1872, be so amended as to read as follows:

HeinOnline -- 1873 70 1873

"Section 8. Any white male person of lawful age, who is a citizen of the United States, or who has declared his intention to become such, who is a tax-payer and a *bona fide* resident of the county, shall be competent to serve as a grand or trial juror." Qualifications of jurors.

Sec. 2. All acts and parts of acts in conflict with this act are hereby repealed.

Approved May 7th, 1873.

JUSTICES AND CONSTABLES.

AN ACT to amend section 112 of chapter 21, on page 456 of printed statutes of an act entitled, "An Act revising, re-enacting and codifying the general and permanent laws of Montana territory," approved January 12th, 1872.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That section 112 of chapter 21 of an act entitled, "An Act revising, re-enacting and codifying the general and permanent laws of Montana territory," approved January 12th, 1872, be amended so as to read as follows:

Sec. 112. That on the first Monday of August next there shall be elected by the qualified voters of each township, which may be organized by the board of county commissioners, two justices of the peace, one of whom shall be elected for two years, and one for one year, and it shall be so designated on the ballot; also two constables for the same time, and in the same manner, and annually thereafter there shall be elected one justice of the peace and one constable who shall hold their term of office for two years. When justices and constables to be elected.

HeinOnline -- 1873 71 1873

Sec. 3. That all acts and parts of acts in conflict with this act be, and the same are hereby repealed.

Repealing clause.

Sec. 3. This act shall take effect from and after its passage.

Approved May 6th, 1873.

LEGISLATURE.

AN ACT to fix the time of holding the regular sessions of the future legislative assemblies of Montana territory.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That the regular sessions of the legislative assembly of this territory shall be held at the capital, beginning on the first Monday after the first day of January in such years as are provided for in the Organic Act, as amended.

Fixing time for regular sessions of the Legislature.

Sec. 2. That all acts and parts of acts in conflict with this act are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved May 6th, 1873.

HeinOnline -- 1873 72 1873

LICENSES.

AN ACT concerning licenses.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. There shall be levied and collected by the tax collector a license tax, as follows: License tax, levied and collected.

First—From each billiard table kept for public use, ten dollars per quarter. On billiard table.

Second—From the manager and lessee of every theater, two dollars per day, or twenty dollars per month; and for each exhibition of opera, or concert singers, minstrels, sleight-of-hand performances, legerdemain, and all other shows or exhibitions, except that exhibitions and concerts, for school or charitable purposes, shall not be subject to the license herein provided for, the same as required for theatrical performances. Theater, shows, etc.

Third—All saloons where women are kept as waiters, five dollars per day or fifty dollars per quarter. Saloons where women are kept as waiters.

Fourth—For each and every insurance company agent or agencies, transacting business in this territory, the sum of one hundred and fifty dollars per year. Insurance company.

Fifth—Each pawnbroker, twenty-five dollars per quarter. Pawnbroker.

Sixth—For each keeper of an intelligence office, ten dollars per quarter. Intelligence office.

Seventh—For each assayer, ten dollars per quarter: *Provided* he shall work for a compensation. Assayer.

Each professional man, before practicing as such, all lawyers, dentists, physicians, surgeons, and all other professions, shall pay a license of sixteen dollars per annum: *Provided*, That all persons who draw any legal instrument, deed, power of attorney, Professional men.

HeinOnline -- 1873 73 1873

or other document for which he charges a fee, shall be considered a professional man.

Livery stables, herders, &c.

Sec. 2. All (keepers) of livery and feed stables shall pay a license of fifteen dollars per quarter; and all keepers of hay yards, corrals for feeding stock, or selling hay, shall pay a license of eight dollars per quarter; and all herders who keep or herd stock for hire, shall pay a license of ten dollars per quarter; ranchmen whose receipts for herding stock exceed twenty dollars per month, shall pay the same license as herders. All keepers of liveries who shall keep and use more than two buggies, carriages, sleighs, or other vehicles, shall pay a license of two dollars and fifty cents for each and every such vehicle, per quarter, in addition to the fifteen dollars [above] provided.

Bakery, confectionery.

Sec. 3. Every person keeping a bakery or confectionery, shall pay a license as follows: Those doing business amounting to two thousand dollars per month, in the aggregate, shall pay a license of fifteen dollars per quarter; those doing business amounting to one thousand dollars and not exceeding two thousand dollars per month, shall pay ten dollars per quarter; and all doing such business in an amount less than one thousand dollars per month, shall pay a license of six dollars per quarter.

Bankers and money loaners.

Sec. 4. Any person or persons, private association, incorporation, or companies, who shall sell foreign or inland bills of exchange, loan money at interest, buy notes, bonds, or other evidence of indebtedness, or shall buy gold dust, gold or silver bullion, or gold or silver coin, or keep savings bank, or engage as a common carrier in transmitting or conveying gold dust, gold and silver coin or bullion from one place to another for hire or profit, or receive general or special deposits of gold dust, gold or silver coin or bullion, or bank notes, shall pro-

HeinOnline -- 1873 74 1873

cure a license before performing any act above enumerated, and shall pay therefor as follows:

Those doing business to the amount of fifty thousand dollars or over per quarter shall pay one hundred dollars per quarter.

Those doing business to the amount of forty thousand, and under fifty thousand per quarter, shall pay seventy-five dollars per quarter.

Those doing business to the amount of thirty thousand dollars, and under forty thousand per quarter, shall pay fifty dollars per quarter.

Those doing business to the amount of twenty thousand dollars, and under thirty thousand dollars per quarter, shall pay thirty-five dollars per quarter.

Those doing business to the amount of ten thousand dollars, and under twenty thousand dollars per quarter, snall pay twenty-five dollars per quarter.

And all doing business or engaged in such transaction in any amount under ten thousand, and over two thousand dollars per quarter, shall pay fifteen dollars per quarter: *Provided*, That any person selling goods or property, other than money, for gold dust, gold or silver coin or bullion, shall not be required to procure a license under this section.

Merchants, jewelers, druggists, etc.

Sec. 5. Every person who has a fixed place of business, who may deal in goods, wares, or merchandise, wines or liquors, drugs or medicines, jewelry, or wares of precious metals, or who shall expose the same for sale, shall pay a license as follows:

Those whose sales are ten thousand dollars or more per month shall constitute the first class, and shall pay a license of fifty dollars per quarter; those whose sales are five thousand dollars, and under ten thousand per month, shall constitute the second class, and shall pay a license of thirty dollars per quarter; those whose sales are two thousand dollars, and under five thousand dollars per month, shall constitute the third class, and shall pay a license of

HeinOnline -- 1873 75 1873

twenty dollars per quarter; and those whose sales are one thousand, and under two thousand dollars per month, shall constitute the fourth class, and shall pay a license of fifteen dollars per quarter; and those whose sales are one thousand dollars or under per month shall constitute the fifth class, and shall pay a license of ten dollars per quarter: *Provided*, the sales of liquors or wines licensed in this section shall not be in less quantities than one quart.

Auctioneers.

Sec. 6. All auctioneers shall procure a license, and shall pay therefor as follows: Those who shall sell or offer for sale cattle, horses, mules, or other live stock, in any town or city containing two thousand or more inhabitants, shall pay twenty-five dollars per month; and all auctioneers who shall sell at auction any such stock outside of any such town or city containing less than two thousand inhabitants, shall pay fifteen dollars per quarter; and auctioneers who shall sell property of any kind at public sale in any place as above specified, shall procure a license, and shall pay therefor as follows: All such auctioneers who shall do business in any town or city containing two thousand or more inhabitants shall pay ten dollars per month; and all such auctioneers who shall sell outside of any town or city, or in any town or city containing less than two thousand inhabitants, shall pay fifteen dollars per quarter, or five dollars per month.

Hotels, restaurants, etc.

Sec. 7. All keepers of restaurants, lodging houses, and hotels, shall pay a license as follows: Those doing business in the aggregate of less than one thousand dollars per quarter shall pay five dollars per quarter; and all whose business is over one thousand dollars per quarter shall pay five dollars for each additional thousand dollars or fractional part thereof per quarter; and all such keepers of restaurants, lodging houses, and hotels, shall make at the end of each quarter a sworn statement of the

HeinOnline -- 1873 76 1873

total amount of their business for the quarter last preceding: *Provided*, That hotel keepers who shall transact business one mile or over outside of any city, town, or village, shall not be required to pay the license required in section two of this act.

Sec. 8. All persons who dispose of any spirituous or malt liquors in any portions less than one quart, shall, before the transacting of such business, obtain a license, for which he or they shall pay as follows: In any city, town, or village, that contains a population of three hundred or more, or within one mile of the limits thereof, the license shall be sixty dollars per quarter; and in any city, town, or village, where the population is less than three hundred, and more than one hundred, the license shall be forty dollars per quarter; and in any city, town, or village, where the population is less than one hundred, and more than forty, the license shall be twenty-five dollars per quarter; and all persons who dispose of any spirituous wine, or malt liquors, at any other place whatever, in quantities less than one quart, shall pay a license of fifteen dollars per quarter. Retail liquor dealers.

Sec. 9. That every traveling merchant, hawker, or peddler, who shall carry a pack or trunk, and shall sell goods, wares or merchandise, shall pay a license of eight dollars per quarter; if he travel with a wagon, or other vehicle, and sell goods, wares or merchandise, he shall pay a license of five dollars per month for each wagon or vehicle: if he travel with a pack animal, and sell goods, wares or merchandise, he shall pay a license of two dollars per month for each pack animal. *Provided*, That no license shall be required to be paid by any person who sells any production of this territory, raised or manufactured by himself. Hawker, peddler, etc.

Sec. 10. Every distiller, manufacturer, or rectifier of spirituous liquors shall pay a license of thirty

HeinOnline -- 1873 77 1873

dollars per month; every brewer, or manufacturer of malt liquors, whose business amounts to one thousand dollars or more per month, shall pay a license of twenty dollars per month; and those whose business amounts to less than one thousand and more than five hundred, shall pay a license of fifteen dollars per month; and all those whose business amounts to less than five hundred dollars per month, shall pay a license of five dollars per month; and every manufacturer of pop, soda, or other drink put up in bottles, except that above specified, shall pay a license of five dollars per month.

Distiller and manufacturer of malt liquors.

Sec. 11. Any person or persons who shall keep any house, or saloon, or room, where any banking game, or other game of chance, is dealt or played for money, or anything representing money is used, bet, ventured, or hazarded, in any city, town or village whose population is greater than five hundred persons, shall pay a license of forty dollars per month; in any city, town or village whose population is less than five hundred, and more than one hundred, shall pay a license of twenty dollars per month; in all other places, ten dollars per month. But this section shall not be construed to authorize or permit any game prohibited by the laws of this territory.

Gambling saloons.

Sec. 12. Every butcher shall pay a license of seven dollars per month. *Provided*, That any butcher carrying on business more than two miles from any city, town or village containing less than one hundred inhabitants, and whose monthly receipts are less than one thousand dollars, shall pay a license tax of ten dollars per quarter; *And provided, further*, That this section shall not apply to farmers or stock-growers having no established place of business, who shall kill and dispose of any meat in quantities not less than one quarter.

Butchers.

HeinOnline -- 1873 78 1873

Sec. 13. Every keeper of a picture gallery, daguerrotypist, photographist, or other artist, shall pay a license tax of fifteen dollars per quarter, or five dollars per month. Photographists, and other artists.

Sec. 14. All incorporated roads, bridges or ferries, or water company, or any other incorporated company not specified in the provisions of this bill, or any other company or association, person or persons, taking or receiving toll, whose quarterly receipts reach the sum of five hundred dollars, shall pay a license tax of twenty dollars per quarter; those whose quarterly receipts shall not exceed five hundred dollars, shall pay a license tax of ten dollars per quarter; those whose quarterly receipts shall reach one thousand dollars, shall pay a license tax of forty dollars per quarter; those whose quarterly receipts shall reach two thousand dollars, shall pay a license tax of eighty dollars per quarter; those whose quarterly receipts shall reach five thousand dollars per quarter, shall pay a license tax of one hundred and fifty dollars per quarter; and those whose quarterly receipts shall reach ten thousand dollars, shall pay a license tax of two hundred and fifty dollars per quarter. *Provided*, That nothing in this section shall apply to water ditches for mining, agricultural, and manufacturing purposes. Incorporated roads, bridges, and ferries.

Sec. 15. That it shall be the duty of any corporate or other company, person or persons, receiving or charging toll or water rates, for any purpose whatever, four times in each year, to file with the treasurer of the county in which said company is located, doing business, or in which they have their office, a sworn statement of all their receipts and expenditures. And it shall be the duty of said treasurer to examine and report and he shall have power to hear testimony for and against the same, and if he approve of the same, he shall proceed to collect the tax imposed by this act upon said com- Water ditches etc.

HeinOnline -- 1873 79 1873

pany or corporation, as provided by law in other cases. And if such owner, officer, or agent, shall fail or refuse to make report as above required, it shall be the duty of said treasurer to estimate the receipts of such company, corporation or person, according to his best knowledge and information, and proceed to collect license, as provided in section fourteen of this act; and no abatement or diminution of said treasurer's estimate shall be made.

Laundrymen.

Sec. 16. That all male persons in this territory who are now or who may hereafter be engaged in the laundry business, shall pay a license of twenty dollars per quarter.

Lotteries.

Sec. 17. Every person who shall carry on the lottery or gift, or prize distribution business, within this territory, shall pay five per cent on the value of property so offered, the value to be determined by the amount asked for the same in the enterprise.

Bowling alleys.

Sec. 18. Every keeper of a bowling alley shall procure a license, and shall pay therefor the sum of ten dollars per quarter for each alley so used.

Stage and express companies.

Sec. 19. All stage or express companies engaged in carrying passengers or express matter, or any person, or association of persons, engaged in such business, shall procure a license, and shall pay to each and every county into or through which their line may extend, for each and every line the sum of ten dollars per quarter.

Term for which license may be granted.

Sec. 20. License may be granted under the provisions of this act for one year or less, at the option of the applicant: *Provided*, no license shall be granted for a less time than that mentioned in the rates of assessments of licenses in this act.

Duties of tax collector.

Sec. 21. Each tax collector shall make dilligent inquiry and examination as to all persons in his county liable to pay license required in this act; and it shall be his duty to require each person to state, under oath or affirmation, the amount of business

HeinOnline -- 1873 80 1873

which he, or the firm of which he is a member, or for which he is the agent or attorney, or the association or corporation of which he is the president or officer, has done in the last preceding month or quarter; and also to make a statement under oath, if required, in order to carry out the provisions of this act, and thereupon such agent or other person shall procure a license for such month or quarter for the class of which such party is liable to pay. And in all cases where an under estimate has been made, the applicant shall be made to pay double license for the next month or quarter. Such license shall authorize the party obtaining the same, in his county, to transact business as provided in such license; *Provided*, that nothing in this act, nor in any license issued under it, shall be so construed as to authorize any person to carry on any business without procuring such additional license as may be lawfully required by laws of the United State, or of any incorporated city.

License tax to be lien on property.

Sec. 22. For the purpose of enforcing the provisions of this act, and to prevent the evasion of the same, all property of every kind held or used in any of the trades, occupations, or professions for which a license is required by the provisions of this act, shall be liable for said license, and said license is hereby made a lien on all such property, which lien shall have precedence of any other lien, claim, or demand; and if any person or persons shall fail or refuse to procure the license required by this act, before the transaction of the business specified, it shall be the duty of the treasurer of the county to seize any of the property upon which a lien is hereby created, or any other property belonging to such person or persons, and sell the same in the manner provided for sheriffs on execution to satisfy said license and cost, and for which said treasurer shall receive a like fee as sheriffs for service of notice and sale on execu-

Duty of treasurer to proceed against delinquent.

HeinOnline -- 1873 81 1873

tions, or said treasurer may sue for and collect said license and cost by attachment, garnishment, or otherwise.

Penalty for doing business without procuring license

Sec. 23. Any person or persons who shall transact any business, trade, or occupation, or profession, for which a license is required by this act, without first obtaining the same, shall be deemed guilty of a misdemeanor, and, upon conviction before any court having competent jurisdiction, be fined in any sum not less than ten dollars nor more than one hundred dollars, and stand committed until such fine shall be satisfied; and like proceedings shall be had thereon as in cases of misdemeanor as prescribed by law.

Penalty for neglect of treasurer under act.

Sec. 24. If any treasurer shall fail or refuse to enforce the provisions of this act as herein directed, he shall be liable, and shall pay double the amount of each and every license which he shall so fail to collect, together with all costs of suit; and it shall be the duty of the district attorney of the district in which such treasurer resides, upon complaint of any tax payer in this territory, to prosecute such treasurer for the same.

Repealed by act of 1874.

Sec. 25. All telegraph offices located in any town or city containing five hundred inhabitants or more, shall pay a license of twenty dollars per quarter.

Repealing clause.

Sec. 26. That an act entitled "An Act Concerning Licences," approved January 10th, 1872, and all acts and parts of acts conflicting with this act, be and the same are hereby repealed.

Sec. 27. This act shall take effect and be in force from and after its passage.

Approved May 8th, 1873.

HeinOnline -- 1873 82 1873

LIMITATIONS.

AN ACT to amend section twenty-two, of chapter forty-one, of an act entitled "An Act revising, re-enacting, and codifying the general and permanent laws of Montana Territory," approved January 12th, 1872.

Be it enacted by the Legislative Assembly of the Territory of Montana.

Section 1. That section twenty-two, of chapter forty-one, of an act entitled "An Act revising, re-enacting, and codifying the general and permanent laws of Montana territory," approved January 12th, 1872, be amended so that the same shall read as follows: Section amended.

Section 22. That nothing in this act shall be so construed as to revive any demand, of whatever nature or character, the right of action upon which has been barred by any act of the legislative assembly of Montana territory, heretofore enacted, whether the same has been repealed or not. Act not to revive any demand.

Sec. 2. That the original section twenty-two of said act be and the same is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

MINES.

AN ACT providing for the location and recording of Mining Claims, on Veins or Lodes.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. Any person or persons who shall hereafter discover any mining claim upon any vein or lode, bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, shall, within twenty days thereafter, make and file for record in Notice of discovery of mining claims required.

HeinOnline -- 1873 83 1873

the office of the recorder of the county in which said discovery is made, a declaratory statement thereof in writing, on oath, before some person authorized by law to administer oaths, describing such claim in the manner provided by the laws of the United States.

Penalty for removing or destroying stake, etc., on mining claim.

Sec. 2. Any person who shall remove any stake or monument placed on any mining claim, or who shall obliterate, deface, or destroy any notice placed thereon, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both such fine and imprisonment, in the discretion of the court.

Chapter repealed.

Sec. 3. That chapter forty-five of an act entitled "General and Miscellaneous Laws," approved January 12th, 1872, be and the same is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its passage.

Approved May 8th, 1873.

NOTARIES PUBLIC.

AN ACT to amend sections 7, 12, and 14, of chapter 47 of an act entitled, "An Act revising, re-enacting and codifying the general and permanent laws of Montana territory.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section amended.

Section 1. That section 7 of said chapter be amended so as to read as follows:

Records of notary, deceased or going out of office, to be deposited with clerk of district court.

Sec. 7. It shall be the duty of every notary public, on his resignation or removal from office, and in case of his death, of his legal representatives, to forthwith deposit the records named in section 3 of this chapter, in the office of the clerk of the district

HeinOnline -- 1873 84 1873

court of the county for which he shall have been appointed, and on failure so to do, the person so offending shall be liable in damages to any person injured thereby. Penalty for violation of this section.

Sec. 2. That section 12 of said chapter be amended so as to read as follows: Section amended.

Sec. 12. Every notary public, before entering upon the duties of his office, shall give bonds to the Territory of Montana, in the penal sum of one thousand (dollars) for the faithful discharge of the duties of his office, with two or more good and sufficient sureties, to be approved by the clerk of the district court, and on the approval of said bond, said notary shall have his bond and commission recorded in the county recorder's office, and shall immediately thereafter file such bond, commission, and oath of office with the clerk of the district court of the county for which he shall have been appointed, who shall thereupon transmit to the secretary of the territory a certificate that such notary public has filed such bond, commission, and oath of office, and that he is duly qualified as notary public, which certificate shall bear the signature of such notary, and shall be filed in the office of the secretary, who shall keep a book into which he shall enter the names of the notaries in the order in which the same are transmited to him, with name of the county and the date of the qualification of each. Notary to give bond, to be approved by clerk of district court. Bond and commission recorded in county recorder's office. Bond, commission and oath filed with district clerk. Clerk of district court to forward, certificate of qualification to secretary of territory.

Sec. 3. That sections 7, 12 and 14 of said chapter are hereby sepealed. Sections repealed.

Sec. 4. This act shall take effect and be in force from and after its passage and approval by the governor.

Approved May 8th, 1873.

HeinOnline -- 1873 85 1873

OFFICIAL BONDS.

AN ACT requiring territorial and county officers to record their official bonds.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. Each territorial officer shall, after the approval of his official bond, and before the same is filed, have such bond recorded in the office of the secretary of the territory, and a certified copy thereof, under the hand and seal of the secretary, shall be evidence in any court of this territory, in case of the loss or destruction of such bond.

Territorial officers to have their bonds recorded in office of secretary of the territory.

Sec. 2. Each county officer shall, after the approval of his official bond and before the same is filed, have such bond recorded in the office of the recorder of deeds of the county for which he shall have been elected, and a certified copy thereof, under the hand and seal of such recorder, shall be evidence in any court of this territory in case of the loss or destruction of such bond.

County officers to have their bonds recorded in office of recorder of deeds.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved May 6th, 1873.

PENITENTIARY.

AN ACT to regulate and govern the Penitentiary at Deer Lodge City, Montana Territory.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That for the government of the penitentiary at Deer Lodge City, in this territory, there shall be appointed by the governor, by and with the the advice and consent of council, on or before May

Three directors to be appointed.

HeinOnline -- 1873 86 1873

10th, A. D. 1873, three directors, who shall hold their office until the first day of February, A. D. 1874, and thereafter he shall appoint three directors by and with the advice and consent of the council, who shall hold office for the term of two years. Each director, before entering upon the discharge of the duties of his office, shall execute to the Territory of Montana a good and sufficient bond in the sum of three thousand dollars, for the faithful performance of his duties, to be approved by the secretary of the territory, and take and subscribe to an oath of office, which shall be endorsed upon his commission.

Bond and oath of directors.

Sec. 2. The said directors shall, at their first meeting after the taking effect of this act in May, 1873, and annually at their meeting in February thereafter, elect one of their number president of the board, and one of their number secretary of the board.

Organization of board of directors.

Sec. 3. A majority of the board shall constitute a quorum for the transaction of business; and no order of the board shall be valid unless it is entered upon its journal and is concurred in by two of its members.

Majority to form quorum.

Orders of board entered on journal.

Sec. 4. It shall be the duty of the directors to prescribe rules and regulations for the government of the prison, specifying the duties of all its officers and employes, and to revise and change the same from time to time as circumstances may require. At least two of the directors shall visit the prison in company, bi-monthly, at a time to be by them agreed on, and examine every department of the prison and audit all claims against it. All of the directors shall meet at the penitentiary on the second Tuesday of May, August and November, A. D. 1873, and thereafter quarterly, commencing on the second Tuesday in February, 1874, and in addition to the duties above prescribed, shall examine the

Directors to establish rules for government of prison.

Directors to visit prison bi-monthly; audit claims and inspect prison.

Regular meetings of directors.

HeinOnline -- 1873 87 1873

books of the warden and everything touching the management of the prison, to enter on their journal the result of all examinations and all orders, official acts, and be signed by the directors present; on or before November fifteenth of each year to report to the governor the condition of the prison, together with a detailed statement of its receipts and expenditures, and such suggestions as its interests may require.

Directors to examine books of warden and management of prison, and enter on journal result of their action.

Directors to report to governor.

Sec. 5. The governor shall, by and with the advice and consent of the council, appoint a warden, who shall take and subscribe an oath or affirmation to faithfully discharge the duties of his office, and enter into a bond to the Territory of Montana in the sum of five thousand dollars, with two good and sufficient free-hold sureties, to be approved by the directors, conditional for the faithful performance of the duties that may devolve upon him as such officer, and shall hold his office until the first Tuesday in February, A. D. 1874; and he shall appoint a successor of said warden, by and with the advice and consent of the council, who shall hold his office thereafter for a period of two years, unless sooner removed by the governor.

Appointment of warden.

Oath and bond of warden.

Term of office of warden.

Sec. 6. The warden shall reside in the penitentiary, and it shall be his duty: First. To carefully supervise the government, discipline and police of the prison; to give all necessary directions to guards and emyloyes, and secure a careful and diligent discharge of their several duties; to examine daily into the condition of the prison, and the health, condition and safety of the convicts; to report to the directors at each quarterly meeting the number of guards employed, their names, and such other matters as may be required; and generally to have charge of all the departments of the prison as its executive head.

Residence and duties of warden.

HeinOnline -- 1873 88 1873

Sec. 7. The board shall appoint a physician, and the warden, with the approval of the directors, shall appoint the guard. All guards so appointed shall enter into bonds to the territory to the satisfaction of the board of directors, in the sum of five hundred dollars each, for the faithful discharge of the duties of their positions. Each of said persons shall discharge the duties of his position under the direction of the warden, and in pursuance of the rules and regulations of the board of directors, and this act.

Physician to penitentiary.

Warden to appoint guards.

Bond of guard.

Duties of guard.

Sec. 8. The warden shall keep the accounts of the prison in such a manner as to clearly exhibit all the financial transactions relating to it; he shall keep a register of convicts, in which shall be entered the name of each convict, the crime of which he is convicted, the date of conviction, by what court sentenced, from what county, his nationality, and accurate description of his person, and if known, whether he has been previously confined in the penitentiary of any state or territory.

Accounts of prison.

Register of convicts.

Sec. 9. The board shall purchase such supplies as are necessary for the prison, at public letting, the letting to be advertised in two newspapers of the territory, once a week for four weeks. The advertisement shall specify what supplies are to be furnished, and when to be furnished. The board may reject all bids, if they believe they are unreasonable and exhorbitant, or there has been collusion among bidders. When a bid is accepted and a contract awarded, the bidder must enter into a bond with good and sufficient sureties to the acceptance of the board that he will furnish the supplies in accordance with the terms of letting.

Supplies how purchased.

Sec. 10. No person shall be appointed to office or be employed, by virtue of this act, who is in the habit of getting intoxicated, and a single act of intoxication shall justify a removal. Any employe

Persons in habit of intoxication not to be appointed, under this act.

HeinOnline -- 1873 89 1873

may be removed by the warden, with the approval of the board, for delinquency in the discharge of his duty, or any other cause which materially affects his usefulness or fidelity. In all cases of removal, the cause thereof shall be stated in writing, and entered on the journal of the board.

Removal of employe.

Sec. 11. If the office of director or warden shall become vacant by death, resignation, or other causes, the vacancy shall be filled by the governor, subject to the approval of the council, if in session, and if it is not, then subject to the approval at its next session thereafter.

Governor to fill vacancy of director and warden.

Sec. 12. The officers and employes shall each receive the following compensation, to-wit: The directors shall be paid the sum of eight dollars per day for the time necessarily engaged in the discharge of their official duties, and twenty cents per mile in going to and returning from the meetings of the board of directors. The warden shall receive eighty-five dollars per month, and the guards sixty dollars per month; and the physician shall receive seventy-five dollars per month, and he shall supply all medicines required for the the treatment of convicts, without other compensation than that stated as his salary. The directors shall be paid quarterly, and the other officers and employes monthly, out of the treasury of the territory, on the warrant of the auditor.

Compensation of officers and employes.

Sec. 13. No money shall be drawn from the treasury, except upon accounts, duly certified by the warden, and approved by two of the board of directors. A triplicate of such accounts shall be filed with the warden.

Money drawn only on certified accounts.

Sec. 14. It shall be the duty of the board to keep as many convicts constantly employed on contracts or otherwise, as the best interests of the territory require, at the highest price that can be obtained for their labor, and the proceeds thereof shall

Directors to keep convicts employed.

HeinOnline -- 1873 90 1873

be applied to the payment of the current expenses of the prison.

Sec 15. In the treatment of convicts the following general rules shall be observed: 1st. Each convict shall be provided with a straw bed and sufficient covering, with garments of coarse material, and with sufficient plain and wholesome food and such variety as may be most conducive to health. 2d. If any convict is sentenced to solitary confinement, the sentence shall be executed, subject to the right of the board of directors to modify it, so far as may be necessary to prevent any serious injury to health. No unnecessary labor shall be required of any convict on Sunday. 3d. No punishment shall be inflicted, except under the direction of the warden. 4th. All money in the possession of a convict when he is received at the penitentiary shall be entered on the record of the board, and shall be paid into the treasury of the warden. 5th. Each convict, when he is discharged from the penitentiary, shall be supplied with a suit of coarse clothes, and the money taken from him when he enters the prison. Treatment of convicts.

Sec. 16. In order that good behavior may be properly rewarded, it shall be the duty of the board to provide in its rules and regulations for a correct daily record of the conduct of each convict, and his fidelity and diligence in the performance of his work; and each one who is sentenced for a definite time shall be entitled to diminish the period of his sentence, under the following rules and regulations: 1st. For each calendar month, commencing on the first day of the month next after his arrival at the penitentiary, during which he shall not be guilty of a violation of the discipline or any of the rules of the prison, and shall labor with diligence and fidelity, he shall be allowed a deduction of two and one-half days. 2d. For every violation of the rules and discipline, or the want of fidelity and care in the Convicts credited with good behavior.

HeinOnline -- 1873 91 1873

performance of work, the convict shall forfeit all time gained, or such portion of it as the board may deduct. 3d. If a convict shall pass the entire period of his sentence without any violation of the rules and discipline, he shall be entitled to a certificate thereof from the warden.

United States convicts.

Sec. 17. All criminals sentenced to the penitentiary by the authority of the United States, for violations of the laws of the United States within this territory shall be received and kept according to the sentence of the court by which they were tried; and the convicts so confined shall be subject in all respects to the same discipline and treatment as though committed under the laws of this territory. The warden is hereby authorized to charge and receive from the United States, for the use of the territory, for each convict, the sum of one dollar per day, and shall, when collected, be paid into the treasury.

Payment of salaries and expenses.

Sec. 18. The salaries and current expenses for the maintenance of the penitentiary and the expenses of the warden, shall be paid in United States currency, and the territorial auditor is hereby required to issue warrants for such amounts as may be necessary to pay such salaries, current expenses and expenses of warden; and the governor and auditor are authorized and required to sell the same at the highest price that can be obtained in United States currency, and apply the proceeds of such sale to the payment of all sums due or that may become due under the provisions of this section. And the auditor shall put up a notice in a conspicuous place in his office for thirty days previous to his selling such warrants, and shall publish the same in some newspaper, likely, in his judgment, to give the widest information in this territory for three weeks, stating the amount of currency that will be required at a given time, and requesting bids for the

Duties of auditor and governor in payment of same.

HeinOnline -- 1873 92 1873

same. *Provided*, That any person bidding on or buying said warrants at said sale shall not be held to violate any license law of this territory.

Sec. 19. This act shall take effect and be in force from and after its passage.

Approved May 6th, 1873.

RAILROADS.

AN ACT to provide for the formation of railroad corporations in the Territory of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That any number of natural persons, not less than five, may become a body corporate for the purpose of locating, constructing, maintaining and operating railroads, with all the rights, privileges and powers conferred by, and subject to all the restrictions of, this act.

Any number of persons not less than five may form railroad corporation.

Sec. 2. That any number of persons as aforesaid, associating to form a corporation for the purposes named in the first section of this act, shall under their hands and seals make a certificate, which shall specify as follows: First, the name of such corporation, by which it shall be known; secondly, the name of the county or counties, and territory or territories, where the termini of said road are to be located, and the county or counties and territory or territories, through which such road shall pass, and the general route of said road; thirdly, the amount of capital stock necessary to construct such road. Such certificate shall be acknowledged before an officer authorized to take acknowledgment of deeds under the laws of this territory, and a duly certified copy of such certificate shall be filed with and record-

Certificate of incorporation.

Certificate, how acknowledged, filed and recorded.

HeinOnline -- 1873 93 1873

ed by the county clerk and recorder of the county in which is the principal place of business of said company, and the original shall be filed with and recorded by the secretary of the territory; a copy of said certificate, duly certified by the secretary of the territory, under the seal of his office, shall be evidence of the existence of such corporation.

After certificate filed and recorded corporators may carry out objects of; right and powers of corporation.

Sec. 3. That when the foregoing provisions have been complied with, the persons named as corporators in said certificate are hereby authorized to carry into effect the objects named in said certificate, in accordance with the provisions of this act; and they, and their associates, successors and assigns, by the name and style provided in said certificate, shall thereafter be deemed a body corporate, with right of succession, with power to sue and be sued, plead and be impleaded, defend and be defended, contract and be contracted with, acquire and convey such real and personal estate as may be convenient and necessary to carry into effect the objects of the incorporation, to make and use a common seal, and the same to alter at pleasure, and to do all needful acts to carry into effect the objects for which it was created; and it shall possess all the powers, and be subject to all rules and restrictions, provided by this act.

May construct and operate road, etc.

Sec. 4. That such corporations shall be authorized to locate, construct, maintain and operate a railroad with a single or double track, with such side-tracks, turn-outs, machine shops, offices and depots as they may deem necessary between any points they may select within the counties named in the certificate as the termini of such road, and they may construct branches to any point in this territory and connect or consolidate their road with that belonging to any other person or corporation.

Sec. 5. That the capital stock of such corporation shall consist of such sum as may be named in

HeinOnline -- 1873 94 1873

the certificate, in shares of one hundred dollars each; such shares shall be regarded as personal property and shall be subject to execution at law. An instalment of ten per centum on each share of stock shall be paid at the time of making the subscription, and the residue thereof shall be paid in such instalments, not exceeding twenty-five per centum on the capital stock; which instalments shall not be called for more frequently than once in three months, and shall be payable at the principal office of the corporation, to such persons as may be required by the directors.

Of the capital stock and payment of same.

Sec. 6. That if any instalment of stock shall remain unpaid for sixty days after the time specified for payment thereof, whether such stock is held by the original subscriber, or his assignee, trustee or successor in interest, the directors may sell the stock so unpaid at public auction, for the instalment then due thereon, first giving thirty days public notice of the time and place of sale in some newspaper in general circulation in this territory, and by written notice sent by mail within five days after default made to each stockholder who is in default and whose name appears upon the books of the corporation, directed to him at his address as last reported by him to the secretary of the corporation; and if any residue of money shall remain after paying the amount due on said stock, the same shall, on demand, be paid over to the owner. *Provided*, That where any stock shall have belonged to a person deceased, the claim for instalments shall not be liable to sale hereunder until a failure by the personal representative of the deceased owner to pay the instalments due in regular course of administration.

Directors may sell unpaid stock.

Sale of stock of deceased person.

Sec. 7. That the persons named in said certificate of incorporation, or a majority of them, shall be authorized to order books to be opened for re-

HeinOnline -- 1873 95 1873

ceiving subscriptions to the capital stock of said corporation, at such time or times and at such place or places as they may deem expedient, after having given at least thirty days notice in a newspaper of general circulation in this territory of the time and place of opening books; and as soon as five per centum on the capital stock shall be subscribed, they may give like notice for the stockholders to meet at such time and place as they may designate for the purpose of choosing five or more directors who shall continue in office until the time fixed for the annual election, which time shall be within six months from the date when such directors were chosen, and until their successors are chosen and qualified; at the time and place appointed directors shall be chosen, by ballot, by such of the stockholders as shall attend for that purpose either in person or by lawful proxies. Each share shall entitle the owner to one vote, and a majority of votes cast shall be necessary for a choice; but after the first election of directors, no person save the personal representatives of deceased persons, as aforesaid, shall vote on any share on which any instalment is in default by reason of the non-payment thereof, after the expiration of the thirty days notice of sale hereinbefore provided for. The persons named in such certificate, or such of them as may be present, shall be inspectors of such election, and shall certify what persons are elected directors, and appoint the time and place for holding their first meeting; a majority of said directors shall form a board and be competent to fill vacancies in their board, make by-laws, and transact all business of the corporation. A new election shall be annually held for directors at such time and place as the stockholders at their first meeting shall determine, or as the by-laws of the corporation may require; and the directors chosen at any election shall, so soon thereafter as may be convenient

Opening of books for subscriptions to stock.

Choosing directors for corporation.

Manner of electing directors.

Directors elected annually.

Organization of board.

HeinOnline -- 1873 96 1873

choose one of their number to be president, and shall appoint a secretary and a treasurer of the corporation. The directors before entering upon their duties shall each take an oath or affirmation faithfully to discharge his duties; and they may from time to time make such dividends of the actual net profits of said corporation as they may think proper, and shall hold their offices until their successors are elected and qualified.

Oath of directors.

Dividends.

Sec. 8. That except as against the United States the right of way through the public lands is hereby granted to any railroad corporation, incorporated under this act, to the extent of one hundred feet in width on each side of the center of such railroad, and the right and authority are hereby given to such corporation to take, from the public lands adjacent to the line of said road, material of earth, stone, timber and water necessary for the construction and maintenance thereof, and it may appropriate the same; and ground for station buildings, work-shops, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations, is hereby granted to such corporation not to exceed forty acres for every ten miles of road; and said corporation may enter upon premises necessary to be entered upon, to make a survey of the line of its road, paying any actual damages done thereby.

Right of way over public lands.

Use of materials.

Ground for station buildings, side tracks, &c.

Sec. 9. That for the purpose of securing private lands and premises on the line of such road within this territory which may be necessary and proper for the construction thereof, such corporation be and is hereby empowered to enter upon, purchase, take and hold any lands or premises that may be necessary and proper for the construction and workings of said road, not exceeding in width one hundred feet on each side of its center line, unless a greater width be required for the purpose of excavation or embankment; and also any lands or premises that

May purchase right of way over private lands.

HeinOnline -- 1873 97 1873

may be necessary and proper for turn-outs, standing places for cars, depots, station-houses, or any other structures, required in the construction and operating of said road; and such corporation shall have the right to cut and remove trees or other material that might, by falling, incumber its road-bed, though standing or being more than one hundred feet therefrom; and in case the owner or claimant of such lands or premises and such corporation cannot agree as to the damages, the amount shall be determined by the appraisal of three disinterested commissioners, who may be appointed upon application by any party to any district court or judge thereof, in any of the judicial districts in which the lands or premises to be taken lie; and said commissioners in their assessments of damages shall appraise such premises at what would have been the value thereof if the road had not been built; and upon the return into court of such appraisement, and upon the payment to the clerk thereof the amount so awarded by the commissinners for the use and benefit of the owner thereof, said premises shall be deemed to be taken by said corporation, which shall thereby acquire full title to the same for the purposes aforesaid; and either party feeling aggrieved by said assessment may, within thirty days, file an appeal therefrom, and demand a jury of twelve men to estimate the damage sustained; but such appeal shall not interfere with the rights of said corporation to enter upon the premises taken, or to do any act necessary in the construction of its road; and said party appealing shall give bonds, with sufficient surety or sureties, for the payment of any costs that may arise upon such appeal to the district court; and in case the party appealing does not obtain a more favorable verdict, such party shall pay the whole cost incurred by the appellee as well as its own; and if said corporation shall have tendered to

Power of condemnation given.

Proceedings for purposes of condemnation.

HeinOnline -- 1873 98 1873

the claimant before the commencement of proceedings to ascertain the damage, a sum equal to what said claimant shall finally recover, and upon the appeal before trial shall file with the clerk of said court an offer to confess judgment for that sum, the claimant shall pay the costs. And the payment into court for the use of the owner or claimant of a sum equal to that finally awarded shall be held to vest in said corporation the title of said land and the right to use and occupy the same for the construction, maintaining and operating of the road of said corporation; and in case any of the lands to be taken as aforesaid shall be held by any person residing without the territory or subject to any legal disability, the court or judge thereof may appoint a proper person, who shall give bonds, with sufficient surety or sureties, for the faithful execution of his trust, and who may represent the parties disqualified or absent as aforesaid, when the same proceedings shall be had in reference to the appraisement of the premises to be taken and with the same effect as has been already described. And the title of the corporation to the lands taken by virtue of this act shall not be affected nor impaired by reason of any failure by any guardian to discharge faithfully his trust; and in case it shall be necessary for such corporations to enter upon any lands which are unoccupied, and of which there is no apparent owner or claimant, it may proceed to take and use the same for the purpose of its said railroad and may institute proceedings, in manner described, for the purpose of ascertaining the value of and acquiring a title to the same; and the court or judge thereof may determine the kind of notice to be served on such owner or owners, and may in its discretion appoint an agent or guardian to represent such owner or owners in case of his or their incapacity or non-appearance. But in case no claimant shall appear

HeinOnline -- 1873 99 1873

within six years from the time of the opening of said road across any land, all claim to damages against said corporation shall be barred: *Provided*, That the district court of the district in which the land or premises are situated shall have exclusive jurisdiction in all judicial proceedings had in pursuance of this section and of section four aforesaid, subject to the right to change the venue for cause.

Of appropriation by corporation of street, alley or public road.

Sec. 10. If it shall be necessary in the location of any part of any railroad to occupy any road, street, alley or public way or ground of any kind, or any part thereof, it shall be competent for the municipal or other corporation, or public officer, or public authorities, owning or having charge thereof, and the railroad company to agree upon the manner and upon the terms and conditions upon which the same may be used or occupied; and if said parties shall be unable to agree thereon, and if it shall be necessary in the judgment of the directors of such railroad company, to use or occupy such road, street or alley, or other public way or ground, such company may appropriate so much of the same as may be necessary for the purpose of such road in the same manner and upon the same terms as is provided for appropriation of the property of individuals by the ninth section of this act. *Provided*, that every railroad company laying down any such track or tracks upon any such public street, road, alley or other public ground, shall be responsible for injuries done to private property by such location lying upon or near such public ground, which may be recovered by civil action brought by the owner or owners at any time within two years from the completion of such track or tracks, before the proper courts.

Responsibility of corporation for damages to private property in such case.

Of right of way through canyons and defiles.

Sec. 11. That any such corporation whose right of way, or whose track upon such right of way, extends through any canyon, pass or defile, shall not

HeinOnline -- 1873 100 1873

exclude any other such corporation from a passage through the same upon equitable terms; and in case of disagreement upon application of either of the parties with notice to the other, the same shall be adjusted by a court of competent jurisdiction; and if the passage of any such railroad through any canyon, pass or defile, causes the disuse or change of location of any public wagon-road that may traverse the same, damages shall be awarded therefor as provided by section nine of this act, and if it shall become necessary for any other railroad company passing through the territory to cross or pass any other railroad track or defile already constructed or surveyed, the same may be so done without any compensation therefor, except the actual damage done by so doing; and when two or more companies desire to pass through the same canyon, pass or defile, neither shall exclude the other from passing through the same, and neither shall have any compensation therefor, except the actual damage done by so doing; and should it be necessary that the said companies should use the same track or bed in passing through such canyon, pass or defile, the same may be done without any compensation therefor from one to the other, except the actual damage done by so doing.

When to commence operations and when to complete work.

Sec. 12. That every railroad corporation organized under the provisions of this act shall be required to commence operations on the line of its road within one year from the filing of its certificate with the secretary of the territory, and thereafter to grade at least ten miles each year and to complete the whole line of its road within five years from the date of the filing of said certificate; and if it shall fail to comply with any of the requirements of this section it shall forfeit its charter and all the rights and privileges conferred by this act as to any uncompleted portion of its line of road.

Forfeiture charter.

HeinOnline -- 1873 101 1873

Upon the written application of any district attorney of a district through which the line of said road would pass, made to the district court, setting forth the alleged cause of such forfeiture, it shall be the duty of such court, after notice to the corporation, to examine the cause; and if in its judgment, sufficient cause exists for such forfeiture, to declare and enforce the forfeiture.

Right to change location of portion of road.

Sec. 13. That whenever any corporation organized under this act, shall find it necessary, for the purpose of avoiding annoyance to public travel, or dangerous or difficult curves, or grades, or unsafe, or unsubstantial grounds or foundations, or for other reasonable causes, to change the location or grade of any portions of its road, such railroad corporation is hereby authorized to make such changes, not departing from the general route prescribed in the certificate of such corporation, and for the purpose of making such change as aforesaid such corporation shall have all the rights, powers and privileges granted by sections eight (8), nine (9) and ten (10) of this act.

Powers to borrow money and issue bonds secured by mortgage.

Sec. 14. That any corporation organized under this act shall have power to borrow money on the credit of the corporation, to an amount not exceeding its authorized capital stock, at a rate of interest to be agreed upon by the respective parties, and may execute bonds therefor in sums of not less than one hundred dollars, and secure the payment thereof by mortgage or pledge of the property and income of such corporation. And if the said mortgage shall so provide, it shall be and remain a valid lien upon all of the property of said company of whatever kind then existing, or that may thereafter be by it acquired, irrespective of the law now in force relating to chattel mortgages, and the same shall be taken, held and enforced in the same manner as

HeinOnline -- 1873 102 1873

mortgages upon real estate now are held and enforced.

May acquire lands by purchase or gift.

Sec. 15. That such corporation may acquire, by purchase or gift, any lands in the vicinity of its road or through which the same may pass, so far as may be convenient or necessary to secure the right of way, or such as may be granted, to aid in the construction of such road; and convey the same in such manner as the directors may prescribe; and all deeds and conveyances made by such corporation shall be signed by the president under the seal of the corporation.

May convey same.

Crossing of stream may divert same; not to impair usefulness.

Sec. 16. That it shall be lawful for such corporation, whenever it may be necessary in the construction of such road, to cross any road or stream of water, to divert the same from its present location or bed; but such corporation shall, without unnecessary delay, place such road or stream in such condition as not to impair its former usefulness.

Principal office of company; how established and changed

Sec. 17. That such corporation shall, as soon as convenient after its organization, establish a principal office at some point on the line of its road, and may change the same at pleasure, giving public notice in one or more newspapers in the territory having the largest circulation, and notice to the secretary of the territory of such establishment or change.

Company may establish telegraph line for road.

Sec. 18. That any such corporation is hereby authorized to construct, maintain and operate a telegraph on the line of the road. The provisions of this act concerning the grant for station buildings, work-shops, depots, machine-shops, switches, side-tracks, turn-tables and water-stations, shall not apply to mineral lands of the United States, or to lands reserved by the United States, nor to any lands as against the United States.

Sec. 19. That nothing in this act shall be construed to make the territory, or any municipality

HeinOnline -- 1873 103 1873

Territory nor municipality not responsible for debts of company.

therein, responsible for any debts or obligations of any character which may be contracted by such corporations.

Sec. 20. That in every case the liability of the corporation to a servant or employe acting under the orders of his superior, shall be the same in case of injury sustained by default or wrongful act of his superior, or to an employe not appointed or controlled by him as if such servant or employe were a passenger.

Liability of corporation to employe.

Sec. 21. If the amount of the capital stock shall be found insufficient to enable said corporation to construct its said road, it shall be competent for the directors, upon a vote of the stockholders, to increase the stock to such sum as shall cover the expenses of the construction of said road.

Increase of capital stock.

Sec. 22. The said corporations formed hereunder may, at any time hereafter, accept the provisions of any act of congress providing for the creation of bodies corporate for the purposes aforesaid, but such acceptance shall not impair or affect the legal or equitable rights of any creditor as they exist at the time of such acceptance, and having regard to such rights and the legal and equitable rights of the stockholders of any corporation organized hereunder, the legislative assembly of the Territory of Montana, or the legislative department of any state into which said territory may be formed, and which includes any portion of any road constructed by any corporations formed hereunder, may alter or amend this act, and may regulate the same so as to prevent dangerous rates of speed of trains, extortionate charges, danger to passengers, citizens, and freight, and unjust discriminations by any such corporations.

Corporations hereunder may accept provisions United States laws.

Sec. 23. If any railroad corporation within this territory shall ask, charge, or demand any exorbitant rate of compensation for the transportation of any freight, baggage, express matter, or passenger,

HeinOnline -- 1873 104 1873

or make any unjust discrimination in its rates, or shall give to any member of the legislative, executive, or judicial department of the Territory of Montana, any ticket, pass, or privilege other than is given to other patrons of its road generally, or shall neglect to provide comfortable and convenient cars or coaches for the transportation of its passengers and their baggage, or safe cars for the transportation of express matter and freight, or shall use any highly inflamable oils for lighting any car on its passenger trains, or shall wilfully neglect to keep a table of its passenger tariff and rates of freight conspicuously posted in each depot within this territory, or fail to light its track in any city in this territory; or shall transport within this territory on any of its passenger cars, any oil of vitriol, gunpowder, lucifer matches, nitro-glycerine, glynoin oil, nitroleum or blasting oil, or nitrated oil, or powder mixed with any such oil or fiber saturated therewith, or duolin or giant powder, or blasting powder, or any other goods of a dangerous nature, or in any incorporated town in this territory run any train at a rate of speed forbidden by the laws of this territory or the ordinances of such city, or run any train over any unsafe bridge, trestle-work, or aqueduct in this territory; or fail to have upon any locomotive in use by it in this territory a bell and steam whistle in fit condition for use thereon; or shall approach any highway, road, or railroad crossing without having, at a distance of fifty rods therefrom and within a distance of eighty rods therefrom, having sounded said whistle and rang said bell; or shall cross any railroad without bringing its train to a full stop, or shall wilfully fail to make any report herein required, or which may be hereafter required by any law of this territory, shall be deemed guilty of a misdemeanor, and, being thereof convicted, shall be fined for the first offence in the sum of one thousand dollars, and

Regulations as to rates of fare, freights, and manner of operating road prescribed.

HeinOnline -- 1873 105 1873

Penalty for violating regulations and rules.

for the second violation of the same provision two thousand dollars, and for every other and further violation of any provision of which it has been twice before found guilty, a sum not less than five nor more than ten thousand dollars.

Annual report to be made to the auditor by president of company.

Sec. 24. It is hereby made the duty of the president or other officer in charge of each and every railroad company having a line of railroads in the Territory of Montana, to make an annual report to the auditor for the year ending on the 30th day of November preceding, which report shall be verified by the oath or affirmation of such president or other officer in charge, and be filed in the office of the auditor by the first day of December in each year, and shall state—

Contents and statements of report.

1st. The amount of capital stock paid in.

2d. The amount of capital stock unpaid.

3d. The amount of funded debt.

4th. The amount of floating debt.

5th. Cost of construction.

6th. Cost of right of way.

7th. Cost of equipment.

8th. All other items embraced in cost of road and equipment, not embraced in three preceding questions.

Total cost of road and equipments to date.

9th. Length of single main track, laid with iron.

10th. Length of double main track and width of gauge.

11th. Length of branches, stating whether they have single or double tracks.

12th. Aggregate length of sidings, and other tracks not above enumerated.

Total length of iron embraced in preceding heads.

13th. The maximum grade, with its length in main road and also in branches.

HeinOnline -- 1873 106 1873

14th. The shortest radius of curvature, with length of curve in main road and also in branches.

15th. Total degrees of curvature in main road and also in branches.

16th. Total length of straight line in main road and also in branches.

17th. Number of wooden bridges, and aggregate length in feet.

18th. Number of iron bridges, and aggregate length in feet.

19th. Number of stone bridges, and aggregate length in feet.

20th. The number of wooden trestles and aggregate length in feet.

21st. The greatest age of wooden bridges.

22d. The average age of wooden bridges.

23d. The greatest age of wooden trestles.

24th. The number and kind of new bridges built during the year, and length in feet.

25th. The length of road unfenced on either side, and the reason therefor.

26th. Number of engines.

27th. Number of passenger cars.

28th. Number of express and baggage cars.

29th. Number of freight cars.

30th. Number of other cars.

31st. The highest rate of speed allowed by express passenger trains when in motion.

32d. The highest rate of speed allowed by mail and accommodation trains when in motion.

33d. The highest rate of speed allowed by freight trains when in motion.

34th. The rate of fare for passengers charged for the respective classes per mile.

35th. The highest rate per ton per mile charged for the transportation of the various classes of freight, through and local.

HeinOnline -- 1873 107 1873

36th. The length of new iron laid during the year.

37th. The length of re-rolled iron laid during the year.

38th. The number of miles run by passenger trains.

39th. The number of miles run by freight trains.

40th. The number of passengers (all classes) carried in cars.

41st. The number of tons of through freight carried.

42d. The number of tons of local freight carried.

43d. The number of tons of ore, cattle, and grain transported.

44th. The value of coin, bullion, and dust carried.

45th. From transportation of passengers.

46th. From transportation of freight.

47th. From mail and express.

48th. From all sources.

Total earnings for the year.

49th. For construction and new equipments.

50th. From maintenance of way and structure.

51st. From maintaining and operating motive power and cars.

52d. For transportation expenses, including those of stations and trains.

53d. For dividends, rate per cent, and amount.

54th. All other expenditures, either for management of road, maintenance of way, motive power and cars, and for other purposes.

Total expenditures during the year.

55th. The number and kind of farm animals killed, and the amount of damages paid therefor.

56th. A statement of all casualties resulting in injuries to persons, and the extent and the causes thereof, and such other and further information as may be required by the auditor, but if any company

HeinOnline -- 1873 108 1873

shall be unable to furnish the required information, the reason thereof shall be given.

The auditor shall prepare and furnish to each railroad company, or to each organization having one or more railroads in charge, blank forms for making the reports required by this act, which blanks may be so prepared by the auditor as to obtain the information required by the foregoing inquiries more in detail, or omit such of a historical or permanent character as may have been given in previous report.

Sec. 25. This act shall take effect and be in force from and after its passage.

The foregoing act having been presented to the governor of the Territory of Montana for his approval, was, on May 7th, 1873, returned by the governor to the council in which it originated, without his approval, and with his objections thereto. The objections were entered at large upon the journal of the council, the vote by which the bill had passed was re-considered, and on the question, "Shall this bill pass, the objections of the governor to the contrary notwithstanding?" it was passed by a two-thirds vote of the council. The act was then immediately sent to the house of representatives, together with the objections of the governor. The vote by which the bill was passed was then immediately reconsidered, and upon the question, "Shall this bill pass, the objections of the governor to the contrary notwithstanding?" it was passed by a two-thirds vote of the house of representatives.

HeinOnline -- 1873 109 1873

RAILROADS.

AN ACT enabling and authorizing any county or counties within the Territory of Montana to aid in the construction of a railroad, and to subscribe to the capital stock of the same.

Be it enacted by the Legislative Assembly of the Territory of Montana :

Section 1. That from and after the passage of this act it shall be lawful for the county commissioners of any or all of the counties within this territory to submit to any incorporated company now organized, or that may hereafter be organized, to construct a railroad into or through this territory, a proposition to subscribe to the capital stock of any such company proposing to construct a railroad from either the line of the Union Pacific, Central Pacific, or Utah Northern railroads, into or through the Territory of Montana, not exceeding twenty per cent of the taxable property of said county, upon the terms and conditions hereinafter prescribed, namely :

First—It is hereby made the duty of the county commissioners of Madison, Jefferson and Gallatin counties, respectively, to submit to the qualified electors of such counties, at the next general and annual election, a proposition to take and subscribe to the capital stock of such company fifteen per cent of the taxable property—real, personal and mixed—in the following manner, to wit : Two per cent upon such taxable property at the time said railroad shall reach and enter such county, to be ascertained by the assessor or assessor's annual returns next thereafter made, and the remaining thirteen per cent of said subscription to be estimated upon and controlled by, the assessor or assessor's annual returns, made for the year eighteen hundred and seventy-six (1876): *Provided*, Said assessor or assessors shall proceed, on and after the first day of February, eighteen hundred and seventy-six, to make the annual assessment for that year, and shall complete the same as soon as possible; that a proposition of like effect shall also be submitted by the county commissioners of Meagher to tax and subscribe ten per cent, two per cent of

HeinOnline -- 1873 110 1873

which shall be levied upon the taxable property—real, personal and mixed—of said county at the time said road reaches and enters the same, to be ascertained by the assessor or assessors' annual returns next thereafter made; and the remaining eight per cent to be estimated upon the returns of the assessor or assessors, as provided for the counties of Madison, Jefferson and Gallatin; that a proposition of like effect shall also be submitted to the qualified electors of Lewis and Clarke county, by its board of county commissioners, to tax and subscribe to the capital stock of said company the sum of twenty per cent of assessible property of said county—that is to say, two per cent of the value of the real, personal and mixed property of said county at the time said road reaches the line of said county, to be ascertained by the annual returns of the assessor or assessors next thereinafter made, and the remaining eighteen per cent after said road shall have been completed to Helena City, in said county, to be estimated and ascertained in the manner hereinbefore provided for the counties of Madison, Jefferson, Gallatin and Meagher.

Second—The same to be payable in the coupon bonds of such county, payable in thirty years from the date thereof, with interest at the rate of seven per cent, payable annually at the capital of this territory or in New York city, at the option of the holder, the same to be delivered as follows: The said two per cent upon said road, reaching and entering the boundaries of the respective counties, and the amount ascertained as aforesaid, and the residue as provided herein to be delivered upon the completion of said road, and the putting of the same in good running order and general operation to the city of Helena, and the amount thereof also ascertained in the same manner hereinbefore mentioned; and in case counties other than Madison, Jefferson, Gallatin, Meagher, and Lewis and Clarke counties, through which said road shall not traverse, and who shall so subscribe to the capital stock of such company, the bonds of such county shall not be delivered until said road shall be completed to the city of Helena.

Third—Such road to be of the first class in its construction, rolling stock and equipments, and of gauge not less than three feet.

HeinOnline -- 1873 111 1873

Fourth—The same shall be completed and put in good running order, well furnished with rolling stock, and put in general operation into this territory, and to the city of Helena, within two and a half years from the thirtieth (30th) day of September, eighteen hundred and seventy-three (1873), and shall place the said city of Helena in railroad communication with the Central Pacific, or Union Pacific, or Utah Northern Railroad, within two years and a half from the said thirtieth (30th) day of September, otherwise the contracts herein named to subscribe to said stock shall be null and void on the part of the said counties, and all liability by virtue thereof cease, and said company shall continue the said road as common carriers until said bonds shall be fully paid. Notice of said proposals shall be duly given to the officers of the Utah Northern Railroad, Central Pacific Railroad, and the Union Pacific Railroad, as also in one or more newspapers.

Sec. 2. When any such company shall accept such proposition, or one substantially the same, the commissioners so making the same, or their successors in office, shall enter the same at large upon their records, and shall, at the next annual election thereafter, cause to be submitted to the electors of their county said proposition for their approval or rejection; and if a majority of the electors at such election shall by their votes approve of such proposition, the same shall also be entered at large upon their records, and the said commissioners shall immediately enter into a contract in writing with said company, in accordance with said proposition and acceptance, so as aforesaid approved, but no liability shall attach thereby until said contract shall be performed as herein specified; and when the same shall have been performed upon the part of said company, its successors or assigns, as herein provided, the full faith and credit of any such county is hereby forever pledged to the full payment of both the principal and interest thereon, and the same is hereby made a legal and valid charge upon the taxable property of any such county, and the said commissioners shall then, at the expense of their counties, cause to be issued and delivered the coupon bonds aforesaid, countersigned by the county clerk, expressing thereon the terms and conditions herein provided, which bonds shall be

HeinOnline -- 1873 112 1873

numbered and registered in a book for that purpose, which shall at all times be open to the inspection of the public.

Sec. 3. At the time of the delivery of the bonds as herein provided, said company shall issue to said commissioners, for the benefit of such county, its certificates in the capital stock of said company, in shares to the amount of such bonds so delivered, which certificates shall not be taxable while held or owned by said county, but which shall entitle said commissioners to a voice and vote in said company according to the amount of stock so subscribed, the same as other stockholders in said company, which certificates shall be registered and numbered in a book kept for that purpose, and at all times be subject to the inspection of any citizen of this territory.

Sec. 4. The commissioners of any such county receiving such certificates of stock may at any subsequent annual election submit to the electors thereof the proposition to sell such certificates at public sale, and if a majority shall favor such sale, then said commissioners shall advertise the same for sale, in the manner prescribed for the sale of real estate by sheriffs upon execution, and apply the proceeds thereof to the payment of said subscription to said stock, or otherwise, as may be provided by law, and a full record of all their proceedings shall be kept for the inspection of the public generally.

Sec. 5. The notice herein provided for elections shall be given by publication in one or more newspapers published within such county at least thirty days before such election; or, if no newspaper be published therein, the same shall be published for the same length of time in one or more newspapers published in the territory, most likely to give general notice of the same.

Sec. 6. There shall be separate ballot-box and separate poll-books for receiving and entering such votes at the election herein provided for; the ballots, or votes, shall contain the words "Railroad Subscription—Yes," or "Railroad Subscription—No," and the same rules, regulations, liabilities and penalties prescribed for the conduct of other elections, and liability of officers thereof, and electors, within this territory,

HeinOnline -- 1873 113 1873

shall be observed and enforced at all elections herein provided for; and the judges at such elections shall truly certify and forward the result of such election, together with such poll-books and ballots so cast, to the board of county commissioners, at the county seat of said county, within twenty-four hours after the same shall have been counted and certified; and upon failure so to do, or to faithfully perform any other duty of this act, required to be done, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall forfeit and pay a fine not exceeding ten thousand dollars, and be imprisoned in the county jail not exceeding six months.

Sec. 7. That the commissioners of any such county so subscribing to the capital stock of any such company shall, in their discretion, from time to time levy a special tax in the same manner as other taxes are now levied, sufficient in amount to pay the annual interest that may from time to time accrue upon the bonds so issued, as also to provide for the final payment of said bonds.

Sec. 8. *Provided*, That if any one of the several counties of Lewis and Clarke, Meagher, Gallatin, Jefferson or Madison, shall fail to subscribe to said stock, as herein provided, then the county commissioners of the other counties so subscribing shall not enter into said contract without the same shall again be submitted to the electors of their county, and approved by said electors, which shall be re-submitted in the manner hereinbefore provided to such counties so subscribing within the next forty days thereafter; and if approved, then the contract aforesaid shall be executed and the provisions and objects of this act carried out accordingly.

Sec. 9. That the property of said railroad company within any county in this territory shall be liable to an *ad valorem* tax, whether special or general, and as well for the purpose of paying the interest and principal upon the bonds herein named, as for other purposes, the same as other property in this territory and in said counties is now or as may hereafter be taxed, but the same shall constitute a special fund, and no part thereof shall by virtue of any law heretofore passed be paid into the territorial treasury; but the entire sum thereof collected in each of the several counties aforesaid shall be-

HeinOnline -- 1873 114 1873

long to such county, and be paid into its treasury, and shall in no event be taken from such county.

Sec. 10. For the purpose of carrying out the objects of this act it shall be the duty of the county commissioners of the respective counties of Madison, Gallatin, Jefferson, Meagher and Lewis and Clarke, or some one or more of their number from each county, especially deputed for that purpose, to convene at Helena, Lewis and Clarke county, Montana territory, on the 15th day of June, 1873, for the purpose of entertaining any and all propositions of companies made for the construction of said road in accordance with the provisions of this act, and submit the propositions of some company in their judgment most likely to comply with the terms and conditions of said contract. Each county shall have three votes, and a majority thereof shall determine the same and submit the proposition of the company selected.

Sec. 11. *Provided*, That any county herein named through which or into which said company shall not construct its railroad, shall not be liable to pay anything under the provisions of this act, and any contract entered into by the said commissioners on the part of such county shall be null and void, and nothing shall be paid by any such county by virtue of any such contract.

Sec. 12. This act shall take effect from and after its passage.

[The foregoing act having been presented to the governor of the territory for his approval, was, on May 7th, 1873, returned to the council, in which it originated, without his approval, and with his objections thereto; the objections were entered at large upon the journal of the council, the vote by which the bill was passed was reconsidered, and on the question, "Shall this bill pass, the objections of the governor to the contrary notwithstanding?" it was passed by a two-thirds vote of the council. The act was then immediately sent to the house of representatives, together with the objections of the governor; the vote by which the act was passed by the House was then reconsidered, and upon the question, "Shall this bill pass, the objections of the governor to the contrary notwithstanding?" it was passed by a two-thirds vote of the house.]

HeinOnline -- 1873 115 1873

REVENUE.

AN ACT to repeal certain portions of section twenty-three of "An Act providing for the Collection of the Revenue," approved January 12th, 1872.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section of revenue law repealed.

Section 1. That so much of section twenty-three of an act entitled "An Act providing for the collection of revenue," approved January 12th, 1872, as relates to the levy and collection of a tax on any dog or bitch be and the same is hereby repealed.

Approved May 30th, 1873.

ROADS AND HIGHWAYS.

AN ACT to define and provide for the working of Public Roads and Highways.

Be it enacted by the Legislative Assembly of the Territory of Montana:

This act was repealed by act of February 12th, 1874.

Section 1. The several boards of county commissioners in this territory are hereby empowered to establish, change, or discontinue all roads and highways running through their respective counties.

Sec. 2. Upon the presentation of a petition signed by at least ten interested freeholders, praying for the establishment or discontinuance of any county road, specifying in such petition the starting and terminating points, it shall be the duty of said county commissioners to appoint three disinterested freeholders of the county as road commissioners, whose duty it shall be to view or examine the proposed route and locate said road by marking and staking, and report their doings at the next ensuing term of the said county commissioners.

HeinOnline -- 1873 116 1873

Sec. 3. Said road commissioners, before entering upon their duties, shall take and subscribe an oath for the faithful performance of their duties.

Sec. 4. If, on the reception of the report of road commissioners mentioned in section two (2) of this article, the county commissioners are satisfied that the establishing of said road will be for the public good, it shall be their duty to make entry of the same upon the records of the county in pursuance of the original petition. This act shall not be so construed as to bar the right of remonstrance in all such cases.

Sec. 5. Road commissioners appointed under this act shall, before locating any county road through the lands or premises of any land-holder, obtain the consent in writing of such land-holder for the location of said county road, and upon the unqualified refusal of such land-holder, it shall be the duty of the locators to locate such road on the route proposed in the petition; *Provided*, a good and practical route cannot be procured around such lands.

Sec. 6. Road commissioners appointed under this act shall receive the sum of three dollars per day for each day actually engaged in the discharge of their duties as such.

Sec. 7. County roads running parallel shall not be nearer than one mile, and in width not less than sixty feet or more than eighty feet.

Sec. 8. Any person wishing to change a county or any other traveled road established under this or any previous law, must petition the county commissioners (stating in such petition the starting and terminating points in the proposed change), signed by at least five freeholders of the neighborhood, and if the commissioners are satisfied from the showing that said proposed change will not materially injure said road, they may order such change to be made.

HeinOnline -- 1873 117 1873

In all such cases the costs to be paid by the party making the application.

Sec. 9. Upon the presentation of a petition signed by at least five freeholders of any neighborhood praying for passways to the various water streams from the adjacent foot-hills for stock purposes, the commissioners may, at their discretion, establish such passways as provided for in sections two and seven of this article. This act shall also apply to the opening and establishing of neighborhood roads running to timber.

Sec. 10. That the several boards of county commissioners, on the petition of twenty *bona fide* citizens of any township of this territory may, in their discretion, establish such township or any part thereof, into suitable and convenient road districts, causing a brief description of the same to be entered on the county records; that in all cases where such petition is presented to the board of county commissioners of any county, they shall, prior to granting the same, cause a public notice thereof to be given, by publication or otherwise, as the commissioners may elect.

Sec. 11. The county commissioners shall, annually, at the February term thereof, appoint a supervisor of roads of each road district in the county, and shall at any time fill any vacancy that may occur in such office, and the county clerk of each county shall immediately notify all persons who have been appointed as supervisors, and they shall qualify within twenty days after their appointment. And such supervisor shall take an oath, before entering upon the duties of their office, for the faithful performance of their duties; that they will call persons in their respective districts liable to work on highways therein; that they will superintend the labor thereon, and see that the same is faithfully performed,

HeinOnline -- 1873 118 1873

and sue for and collect all moneys due his district. No commissioner to be a road supervisor.

Sec. 12. If at any time during the year any public road shall become obstructed by falling timber or from any other cause, or any bridge shall be impaired or become dangerous for the passage of teams or travelers, the supervisor of the road district, upon being notified thereof, shall forthwith cause such obstruction to be removed, or bridges repaired, for which purpose he shall immediately order out such number of inhabitants of his district as may be necessary to remove such obstruction, or to repair such bridge, and all persons so ordered out shall, after having received one day's notice, be subject to the same restrictions and liable to the same penalties as if ordered out under section thirteen of this chapter.

Sec. 13. In all cases where any person under the direction of the supervisor of roads perform more labor upon the public roads than may have been assessed upon him under the provisions of this act, the supervisor shall give such person a certificate specifying the amount of extra labor so performed, which certificate shall be received from the holder in satisfaction of labor on the roads in such road district, in any subsequent year, for the amount of labor specified therein.

Sec. 14. All able bodied men between the ages of twenty and forty-five residing in any organized road district, shall be liable for labor on the public roads under the superintendence of the supervisor not less than two days nor more than four days each year. It shall be the duty of the supervisor to give at least one day's notice to each person so required to work upon the public roads; and it shall be the duty of the supervisor to report to the board of county commissioners at their regular meetings in December in each year, a statement of all moneys

HeinOnline -- 1873 119 1873

collected by them, and of the number of days work done in the district for each year.

Sec. 15. Such supervisor shall receive for his services whilst actually engaged in working the road the sum of three dollars per day, to be paid out of any moneys belonging to said road district.

Sec. 16. Any person liable to labor on roads and highways refusing to perform such labor when called on by the supervisor, shall pay to such supervisor the sum of three dollars per day for each day lost while such road is being worked, and all supervisors under this act are hereby empowered and authorized to collect, in his own name, the same by law, governing the collection of all other debts.

Sec. 17. Any supervisor who shall fail to keep all roads in the bounds of his district in good traveling condition, and perform all other duties required by law as such, shall be deemed guilty of a misdemeanor, and shall be fined in any sum not exceeding five hundred dollars before any court having competent jurisdiction.

Sec. 18. All acts and parts of acts in conflict with this act are hereby repealed.

Approved May 7th, 1873.

HeinOnline -- 1873 120 1873

SALARY—AUDITOR, TREASURER.

AN ACT to establish and regulate the compensation and fees of the Secretary of the Territory, Territorial Auditor, Treasurer, and Superintendent of Public Instruction.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. The auditor and treasurer of the territory shall each receive a salary of two thousand dollars per annum, payable quarterly, by warrants drawn on the territorial treasurer. Salary of auditor.

Sec. 2. The above-named officers shall not receive any other compensation, except as above provided. To receive no other compensation.

Sec. 3. The territorial superintendent of public instruction shall receive a salary of twelve hundred dollars per annum, payable quarterly, by warrants drawn on the territorial treasurer. Salary of superintendent of public instruction.

Sec. 4. He shall receive all necessary traveling expenses, not exceeding three hundred dollars per annum; which shall be paid out of any funds in the treasury, not otherwise appropriated. Traveling expenses of same officer.

Sec. 5. He shall receive all necessary expenditures of money incurred for rent, fuel, postage, printing and expressage, not exceeding three hundred dollars per annum; to be paid out of any funds in the treasury, not otherwise appropriated. Rent, fuel, postage, &c., allowed.

Sec. 6. The fees of the secretary of the territory shall be as follows:

For certificate and seal, one dollar; for official seal and signature, without certificate, fifty cents; for filing and approving bond, one dollar; for each commission issued to any officer, two dollars; for receiving and filing each certificate of incorporation, two dollars; for recording each instrument of writing, per folio, twenty cents; for filing each paper, fifteen cents; for copy of any law, act, or any other writing, per folio, twenty cents.

HeinOnline -- 1873 121 1873

Acts repealed.

Sec. 7. All acts and parts of acts conflicting with this act are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its passage.

Approved April 30th, 1873.

SCHOOLS.

AN ACT to amend an act entitled "An Act to provide for a system of common schools."

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That section 9 of said act be amended so as to read as follows:

This act was repealed by act of February 13, 1874.

Sec. 9. The county superintendent shall apportion all school moneys to the school districts, in accordance with the provisions of this act, quarterly, and he may make apportionments at such other times as may be required or deemed necessary for the convenience of school officers. He shall certify to the several district clerks and county treasurers, the amount so apportioned to the several districts, and the trustees shall draw their warrants on the county treasurer in favor of persons entitled to receive the same. Such warrant shall show for what purpose the money is required, and no such warrants shall be drawn, unless there is money in the treasury to the credit of such district.

Sec. 2. That section 10 of said act be so amended as to read as follows:

Sec. 10. The county superintendent shall have power and it shall be his duty,

First—To visit each school in his county, at least once a year.

HeinOnline -- 1873 122 1873

Second—To distribute promptly all reports, laws, forms, circulars and instructions which he may receive for the use of school officers and teachers from the superintendent of public instruction.

Third—To report to the superintendent of public instruction annually, on or before the twentieth day of November, for the school year ending on the last day of October next preceding, such statistics as may be required of him.

Fourth—To examine all persons who wish to become teachers in his county, and if they are competent and are of good moral character, he shall give such persons a certificate, certifying the relative standing in each study required by law to be taught in the public schools, and such other studies as may be authorized by the trustees of the district in which the applicant proposes to teach, and that he or she is qualified to teach in said county. Such certificate shall hold good for the term of two years, but may be revoked sooner by the superintendent for good cause. The superintendent shall receive the sum of two dollars from all teachers examined by him.

Fifth—To enforce the course of study adopted by the territorial superintendent of public instruction.

Sixth—To enforce the rules and regulations required in the examination of teachers.

Seventh—To keep on file and preserve in his office the biennial report of the superintendent of public instruction.

Eighth—To keep in a good and well bound book, to be furnished by the county commissioners, a record of his official acts.

Ninth—To carefully preserve all reports of school officers and teachers, and at the close of his term of office, deliver to his successor all records, books, documents and papers belonging to the office, tak-

HeinOnline -- 1873 123 1873

ing a receipt for the same, which shall be filed in the office of the county clerk.

Sec. 3. That section 13 of said act be amended so as to read as follows:

Sec. 13. The county superintendent shall have power, and it shall be his duty, to appoint trustees and district clerk for any district which from any cause fails to elect at the regular time; to appoint trustees and district clerk to fill vacancies; to appoint trustees and district clerk for any new district. *Provided, however*, that when a new district is organized, such of the trustees and district clerk of the old district as reside within the limits of the new one, shall be trustees and district clerk of the new one, and the vacancies in the old district shall be filled by appointment.

Sec. 4. That section 17 of said act be so amended as to read as follows:

Sec. 17. For the purpose of organizing a new district, or for the subdivision of or change in the boundaries of an old one, except as provided in section fourteen (14), at least five heads of families must present a petition to the the county superintendent, setting forth the boundaries of the new district asked for, or the change of the boundaries desired, with the reasons for the same. The county superintendent shall, after giving due notice to all parties interested, transmit the petition to the board of county commissioners, with his approval or disapproval, and such changes in the boundaries as he may deem necessary or advisable. The commissioners shall establish the district as approved by the county superintendent. *Provided*, that by a unanimous vote of the board, they may establish the district in accordance with the original prayer of the petition, or with such modification as they may choose to make, or may reject it. In any case of alleged hardship, any head of a family, parent or

HeinOnline -- 1873 124 1873

guardian may make a statement of the facts to the board of commissioners, and if, in the judgment of the board, good cause be shown for such transfer, he may be transferred to another district.

Sec. 5. That section 45 of said act be amended so as to read as follows:

Sec. 45. That it shall be the duty of the county clerks of the several counties of the territory, to make a report to the county superintendent of common schools within their counties, on or before the tenth day of November of each year, the amount of school tax levied in their respective counties for that year, and that it be the duty of the clerk of the district court, at the close of every term thereof, to report to the county superintendent of the county in which said term shall have been holden, whether or not any fines, and if any, what ones were imposed by the said court during the said term, and that it be the duty of the probate judge and of all justices of the peace, to report to the county superintendent of their respective counties, on or before the tenth day of November of each year, whether or not they have imposed and collected any fines during the preceding year; and if any, what ones, with the date at which the same were paid to the county treasurer; and all officers mentioned in this act who shall fail or neglect to perform any of the duties required by this act shall be deemed guilty of a misdemeanor, and upon conviction before any court having competent jurisdiction thereof, shall be fined in any sum not less than twenty dollars, and not more than one hundred dollars for each neglect, and such fine shall be paid into the county treasury for the benefit of common schools of said county.

Sec. 6. That section 61 of said act be amended so as to read as follows:

HeinOnline -- 1873 125 1873

Sec. 61. The school year shall begin on the first day of November, and end on the last day of October.

Sec. 7. That sections 9, 10, 13, 17, 45, and 61 of said act be, and the same are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its passage.

Approved May 8th, 1873.

HeinOnline -- 1873 126 1873

SPECIAL LAWS.

AN ACT to punish vagrants and idlers in the county of Gallatin.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Idle person, without visible means of support for one week, deemed vagrant.

Section 1. That every person without any visible means of support, who shall be wilfully idle for the space of one week, and every person who, without any visible means of support, shall refuse to work for a living for the same length of time, and every person who shall be without a legitimate employment, and without means of support, and wilfully idle for thespace of one week, shall be deemed a vagrant.

Vagrant put to hard labor by sheriff.

Vagrant refusing to work to be imprisoned.

Sec. 2. Every person who shall be adjudged a vagrant shall be put to hard labor by the sheriff for one month, who shall be entitled to the earnings of the same, and if such person shall refuse to work, he shall be imprisoned in the county jail for not more than one month, and be fed upon bread and water only.

Sec. 3. The sheriff shall receive the sum of sixty cents only per day for keeping any person in jail who shall be imprisoned under this act.

Sheriff to complain against vagrants; penalty of sheriff's neglect.

Duty of probate judge.

Sec. 4. It shall be the duty of the sheriff to make complaint against all vagrants, and if he shall refuse or neglect the same he shall be fined fifty dollars, the same to be paid into the county treasury; and it is hereby made the duty of the probate judge to see that this section is enforced.

HeinOnline -- 1873 127 1873

Pay of sheriff for keeping vagrant.

Sec. 5. The sheriff shall not be entitled to any pay for keeping prisoners, under this act, when he receives the earnings of such prisoner, nor for keeping said prisoner at any time, except when he shall be in jail on bread and water; and if, while said prisoner is in confinement, the said sheriff shall allow him to have any other diet whatever, except bread and water, he shall forfeit all claim to compensation for dieting prisoners, under this act.

Diet of prisoner under this act.

Provisions of act confined to Gallatin county

Sec. 6. That this act shall be in full force and effect in the county of Gallatin, and no other county or city of this territory, unless provided for by a city or town ordinance.

Sec. 7. This act shall take effect from and after its passage.

NOTE BY THE SECRETARY.—The foregoing act having been presented to the governor of the territory, on the fifth day of May, 1873, for his approval, and not having been returned by the governor to the house of the legislative assembly in which it originated, within the time prescribed by the organic act of the territory, has become a law without his approval.

SPECIAL LAWS.

AN ACT to provide for the publication of certain laws.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Certain laws to be published under direction of the auditor.

Section 1. The territorial auditor is hereby authorized and required to cause to be published in some newspaper having general circulation in the territory the license law, fee bills, and such other laws of a general nature as shall be designated by two members of the house and two of the council; and shall also cause to be printed five hundred copies of all such laws so designated, on slips of paper, of which slips he shall furnish copies to each

HeinOnline -- 1873 128 1873

territorial and county officer, and to each member of the house and council, on or before the twenty-sixth day of June, 1873.

Slips containing laws to be posted in county and territorial offices.

Sec. 2. The said territorial and county officers shall cause the said slips to be put up in some convenient and conspicuous place in their offices accessible to the public.

Auditor to draw his warrant in payment.

Sec. 3. The territorial auditor is hereby authorized to draw his warrant upon the territorial treasurer in favor of such person or persons who perform such advertising and printing, upon the delivery of said printing, accompanied with an affidavit that the slips contain the number of thousand ems set forth in said bill presented, and that the same were published one week in a newspaper (naming it), a copy of which shall be filed with the auditor.

Rates at which warrants shall be issued for printing.

Sec. 4. The auditor shall issue said warrants at the rate of one dollar and fifty cents per thousand ems, and for printing said slips he shall allow at the rate of twenty-five cents per thousand ems: *Provided*, That in no case shall he issue warrants for any part of said work unless accompanied by a statement, acknowledged before some officer authorized by law to administer oaths; *Provided*, That the entire sum allowed shall not exceed four hundred dollars.

Limitation of amount allowed to be paid.

Secretary of territory to deliver copies authorized to be published.

Section 5. The secretary of the territory shall deliver copies of such laws as shall be decided upon by said committee, as provided for in section one of this act, to the auditor for publication, for which he shall be allowed such compensation as is now allowed by law per folio for copying, and the auditor shall draw his warrant on the territorial treasurer in favor of said secretary for the amount of his bill.

Rate at which the secretary shall be paid for copies.

Sec. 6. This act shall take effect and be in force from and after its passage.

Approved May 8th, 1873.

HeinOnline -- 1873 129 1873

SPECIAL LAWS.

AN ACT relating to certain county warrants in Madison county.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Treasurer of Madison county not to enter certain warrants for payment.

Section 1. The county treasurer of Madison county shall not enter in any book any county warrants of said county presented for payment that were issued prior to the first day of August, A. D. 1870.

Holders of warrants issued prior to August 1st, 1870, to present same for allowance to county commissioners.

Sec. 2. It shall be the duty of the holders of any county warrants of Madison county, that were issued prior to the first day of August, A. D. 1870, and have not been duly duly entered in a book by the county treasurer of said county to secure the order of their payment, to present the same for allowance to the county commissioners of said county.

Sec. 3. All acts and parts of acts in conflict with this act are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved May 5th, 1873.

SPECIAL LAWS.

AN ACT to provide for the payment of certain expenses, and making an appropriation therefor.

Be it enacted by the Legislative Assembly of the Territory of Montana:

To pay United States marshal for canvassing votes, etc.

Section 1. That the auditor of the Territory of Montana be, and he is hereby, authorized to settle with William F. Wheeler, United States marshal, for his travel and expenses from Helena to Virginia City and return, to count the official vote of said

HeinOnline -- 1873 130 1873

territory, and to draw his warrant on the treasurer of the territory therefor. *Provided*, that the said sum, so by said auditor to be allowed, shall not exceed seventy-eight dollars.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved May 6th, 1873.

SPECIAL LAWS.

AN ACT to amend an act entitled "An Act to incorporate the Historical Society of Montana."

Be it enacted by the Legislative Assembly of the Territory of Montana :

Section 1. That the act entitled "An Act to incorporate the historical society of Montana," approved February 2d, 1865, be amended by adding to section three thereof as follows : Act amended.

And there shall be an annual meeting of said society, at such time and place as the said trustees and other officers and members thereof shall determine; and if they shall fail to fix a time and place for such meeting, then said society shall hold its annual meeting at a time and place to be designated by the president and secretary, of which there shall be at least three weeks notice published in the newspaper of the city where said meeting shall be held at which meeting those present shall constitute a quorum. Fixing annual meetings for the Historical Society of Montana.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved May 5th, 1874.

HeinOnline -- 1873 131 1873

SPECIAL LAWS.

AN ACT to furnish members of the Legislative Assembly of the Territory of Montana with copies of laws and journals.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. Each member of the legislative assembly of Montana territory, and clerks thereof, shall be furnished with a copy of the laws passed at the seventh session, as well as the laws passed at the extraordinary session, when they are printed; also, a copy of the journals of both houses during said sessions.

Members and officers of legislature to be furnished with copies of laws.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved May 8th, 1873.

SPECIAL LAWS.

AN ACT to amend an act entitled "An Act authorizing the county commissioners of Missoula county to levy a special tax," approved December 30th, 1871.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That section 1 of an act entitled "An Act authorizing the county commissioners of Missoula county to levy a special tax, for the purpose of building, buying and repairing bridges," approved December 30th, 1871, is hereby amended as foliows:

Section amended.

Amendment.

Strike out the words, three thousand five hundred, and insert in lieu thereof, four thousand one hundred.

HeinOnline -- 1873 132 1873

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved April 29th, 1873.

SPECIAL LAWS.

AN ACT providing for the payment of certain moneys by the county treasurer of Lewis and Clark county to the treasurer of the Helena fire department.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. All moneys hereafter collected by the county treasurer of Lewis and Clark county, from insurance companies for license, shall be by him paid to the treasurer of the Helena fire department for the use of the department.

License received from insurance companies in Lewis and Clark county donated to Helena fire department.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved May 7th, 1873.

SPECIAL LAWS.

AN ACT making an appropriation for printing the reports of the Auditor and Treasurer for the eighth fiscal year, made to the governor, December 1st, 1872.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That the sum of four hundred dollars be, and the same is hereby, appropriated out of any

Appropriation to Geo. F. Cope for printing.

HeinOnline -- 1873 133 1873

money in the treasury not otherwise appropriated, to Geo. F. Cope, for printing five hundred copies of the reports of the auditor and treasurer of the Territory of Montana, for the eighth fiscal year, made to the governor on December 1st, 1872.

Auditor to draw warrant to pay for same.

Sec. 2. That the auditor of Montana territory be, and he is hereby, authorized to draw (a) warrant on the treasurer of the territory amounting in the aggregate to the said sum of four hundred dollars.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved April 29th, 1873.

SPECIAL LAWS.

AN ACT to incorporate the town of Helena.

Be it enacted by the Legislative Assembly of the Territory of Montana:

ARTICLE I.—*Of Boundaries.*

Section 1. That the inhabitants of the city of Helena, in Lewis and Clarke county, Territory of Montana, be and they are hereby constituted a body politic and corporate, by the name and style of "The City of Helena," and by that name shall have perpetual succession; may sue and be sued, plead and be impleaded in all courts of laws and equity, and may have and use a common seal, and alter the same at pleasure.

Sec. 2. That all territory embraced within the limits of the town site of Helena, as the same is now on record in the office of the county clerk and recorder of said Lewis and Clarke county, a plat and map of which is filed in the office of the probate judge of said county, and all additions thereto now laid out into city lots with plats in said county recorder's office, shall for the present compose the said town.

HeinOnline -- 1873 134 1873

Sec. 3. Whenever any tract of land adjoining the city of Helena shall be laid off into town lots and duly recorded, as may be required by law, the same may, by the city council, be annexed to and become a part of the city of Helena.

Sec. 4. The inhabitants of said city, by the name and style aforesaid, shall have power to purchase, receive and hold property, both real and personal, or mixed, either in or beyond the city, for burial grounds, and for other purposes, for the use of the inhabitants of said city.

ARTICLE II.—*Of the City Council.*

Section 1. There shall be a city council, to consist of a mayor and board of aldermen.

Sec. 2. The board of aldermen shall consist of two members from each ward, to be chosen by the qualified voters for two years, and until others shall be legally qualified.

Sec. 3. No person shall be an alderman unless at the time of his election he shall be a freeholder, and have resided within the limits of the city one year immediately preceding election, and shall have the requisite qualifications to vote for members of the legislature, and be a resident of the ward for which he is elected.

Sec. 4. If any alderman after his election remove from the ward for which he was elected, his office shall be declared vacant. The mayor and aldermen shall serve without any compensation whatever.

Sec. 5. At the first meeting of the city council the aldermen shall be divided by lot into classes. The seats of those of the first class shall be vacated at the expiration of the first year; and of the second class at the expiration of the second year; so that one-half of the board shall be elected annually.

Sec. 6. The city council shall judge of the qualifications and returns of their own members, and shall determine all contested elections under this act.

Sec. 7. A majority of the city council shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, under such penalties as may be prescribed by ordinances.

HeinOnline -- 1873 135 1873

Sec. 8. The city council shall have power to determine the rules of its proceedings, punish its members for disorderly conduct, and, with the concurrence of two-thirds of the members elected, expel any member.

Sec. 9. No alderman shall be appointed to any office under the authority of the city, nor for one year after the termination of his said office; nor shall any person holding an office under the laws of the United States hold any office under this act or the ordinances of said city.

Sec. 10. All vacancies that shall occur in the board of aldermen shall be filled by election.

Sec. 11. The mayor and aldermen before entering upon the duties of their respective offices, shall each take and subscribe an oath, or make an affirmation, that he will support the Constitution of the United States and the Organic Act of this territory, and that he will well and truly perform the duties of his office to the best of his skill and ability.

Sec. 12. Whenever there shall be a tie in the election of aldermen, the judge of the election shall certify the fact to the mayor, who shall determine the same by lot, in such manner as shall be prescribed by ordinance.

Sec. 13. There shall be twelve stated meetings of the city council in each year, at such times and places as may be prescribed by the city council.

ARTICLE III.—*Of the Executive Officer.*

Section 1. The chief executive officer shall be a mayor, who shall be elected by the qualified voters of the city, and shall hold his office for one year, and until his successor shall be elected and qualified.

Sec. 2. No person shall be eligible to the office of mayor who shall not have been a resident of the city for one year next preceding his election, or who shall be under twenty-five years of age, or who shall not, at the time of his election, be an elector.

Sec. 3. If any mayor, during the term for which he shall have been elected, remove from the city, or shall be absent

HeinOnline -- 1873 136 1873

from the city for the space of three months, his office shall be vacated.

Sec. 4. When two or more persons shall have an equal number of votes for mayor, the judges of election shall certify the same to the city council, who shall proceed to determine the same by lot, in such a manner as may be provided by ordinance.

Sec. 5. Whenever any election for mayor shall be contested the city council shall determine the same as may be prescribed by ordinance.

Sec. 6. Whenever any vacancy shall happen in the office of mayor it shall be filled by election.

ARTICLE IV.—*Of Elections.*

Section 1. On the third Monday in May, A. D. 1873, an election shall be held in said city for one mayor for the city and two aldermen for each ward, and forever thereafter on the first Monday in May of each year there shall be an election of one mayor for said city and one alderman for each ward.

Sec. 2. All citizens of the United States, and those who have declared their intention to become such, of twenty-one years of age, who shall have been actual residents of said city six months next preceding said election, shall be entitled to vote for city officers, provided that said voters shall give their votes in the wards in which they shall respectively reside.

ATRICLE IV.—*Powers of the City Council.*

Section 1. The city council shall have power and authority to levy and collect *ad valorem* taxes for city purposes upon all taxable property, real, mixed and personal, except as herein excepted, within the limits of the city, not exceeding three-tenths of one per cent per annum upon the assessed value thereof, and may enforce the payment of the same in any manner that may be preseribed by ordinance, not repugnant to the Constitution of the United States, or the Organic Act of this territory.

HeinOnline -- 1873 137 1873

Sec. 2. The city council shall have power to appoint all officers except the police magistrate, city clerk, city assessor, treasurer and marshal, who shall be nominated by the mayor, and by him appointed, by and with the advice of the city council, whose term of office shall be one year, subject to removal as herein provided.

Sec. 3. The city council shall have power to require of all officers appointed or elected in pursuance of this act bonds with penalty and security for the faithful performance of their respective duties as may be deemed expedient, and also require of all officers appointed or elected as aforesaid to take such oaths or make such affirmations as the city council may prescribe for the faithful performance of the duties of their respective offices before entering upon the discharge of the same.

Sec. 4. To appropriate money and funds for the payment of the expenses of the city.

Sec. 5. To make regulations to prevent the introducing of contagious diseases into the city; to make quarantine laws for the purpose, and to enforce the same within five miles of the city.

Sec. 6. To establish hospitals and make regulations for the government of the same.

Sec. 7. To make regulations to secure the general health of the inhabitants; to declare what shall be a nuisance, and to prevent and remove the same.

Sec. 8. To provide the city with water, erect hydrants and pumps, build cisterns and dig wells in the streets for the supply of engines and buckets.

Sec. 9 To open, alter, abolish, widen, extend, establish, grade, pave or otherwise improve and keep in repair, streets, avenues, lanes, alleys, side-walks, drains and sewers.

Sec. 10. To establish, erect, and keep in repair bridges.

Sec. 11. To divide the city into wards, alter the boundaries thereof, and create additional wards, as the occasion may require.

Sec. 12. To establish, support and regulate night watches.

HeinOnline -- 1873 138 1873

Sec. 13. To provide for lighting the streets, and to erect lamp posts.

Sec. 14. To erect market houses, to establish markets and market places, and to provide for the government and regulation thereof.

Sec. 15. To provide all needful buildings for the use of the city.

Sec. 16. To provide for the enclosing, improving and regulating of all public grounds belonging to the city.

Sec. 17. The said city council shall not be authorized to incur any indebtedness on behalf of said city for any purpose whatever.

Sec. 18. It shall have power to provide for the prevention and extinguishment of fires; to organize and establish fire companies, and to prohibit the erection of wooden buildings in any part of the city.

Sec. 19. To regulate the building and fixing of chimneys, and to fix the flues thereof.

Sec. 20. To regulate the storage of gunpowder, tax, pitch and resin, and other combustible or dangerous materials.

Sec. 21. To regulate parapets, walls and partition fences, and restrain cattle, hogs, horses, sheep and dogs from running at large.

Sec. 22. To establish standard weights and measures, and regulate the weights and measures to be used in the city in all cases not otherwise provided for by law, and to order all laws on the subject to be enforced, and to fix and enforce payment of fines for non-compliance with any such order.

Sec. 23. To provide for the measuring and inspection of lumber and other building materials, and the measuring of all kinds of mechanical work.

Sec. 24. To provide for the inspection and weighing of stone coal, and measurement of charcoal, firewood and other fuel to be used within the city.

Sec. 25. To provide for and regulate the inspection of tobacco and of beef, pork, mutton, game, and fish, flour, meal, and whiskey in barrels.

HeinOnline -- 1873 139 1873

Sec. 26. To regulate the inspection of butter, lard, and all other provisions.

Sec. 27. To regulate the weight and quality of bread to be used in the city.

Sec. 28. To regulate the size of bricks to be used in the city.

Sec. 29. To provide for taking the enumerations of the city.

Sec. 30. To regulate the election of city officers, and to provide for removing from office any person holding an office created by ordinance.

Sec. 31. To fix the compensation of city policemen, who shall be night watchmen. *Provided*, That such compensation shall not exceed the same paid by law in this territory to other officers for like services, and regulate fees of jurors, witnesses and others for services rendered under this act, or any ordinance made in pursuance thereof.

Sec. 32. To regulate tho police of the city; to enforce fines, forfeitures and penalties for the breach of any ordinance, and to provide for the receiving and appropriation of such fines and forfeitures, and the enforcement of such penalties, and all moneys collected under or by authority of any city ordinance shall be deemed to be taken to belong to said city for the general use and benefit of the inhabitants thereof for the purposes herein provided.

Sec. 33. The city council shall have power to make all ordinances which shall be necessary and proper for carrying into execution the powers specified in this act, so that such ordinances incur no indebtedness whatever, and necessitate no levying of taxes exceeding three mills on each dollar, except as is provided in sections five and six of article seven, and be not repugnant to nor inconsistent with the constitution of the United States, nor the Organic Act of this territory.

Sec. 34. The style of the ordinance shall be, "Be it ordained by the city council of the City of Helena."

Sec. 35. All ordinances of the city council shall, within ten days after they shall have been passed, be published in two newspapers in the city, or posted in three public places in said

HeinOnline -- 1873 140 1873

city, and shall not be in force until they have been posted as aforesaid.

Sec. 36. All ordinances of the city council may be proven by the seal of the corporation, and when printed in book form or pamphlet form, and purporting to be printed and published by authority of the corporation, the same shall be received in evidence in all courts and places without further proof.

ARTICLE VI.—*The Mayor.*

Sec. 1. The mayor shall preside at all meetings of the city council, and in case of a tie he shall have the casting vote, and in no other; in case of the non-attendance of the mayor at any meeting, the board of aldermen shall appoint one of their number as chairman, who shall preside at the meeting, but shall not thereby lose his right to vote on any question before the board.

Sec. 2. The mayor or any two aldermen may call a special meeting of the city council, the city clerk, on their requisition, giving reasonable notice in writing thereof to all members of the city council present in said city.

Sec. 3. The mayor shall at all times be vigilant and active in enforcing the laws and ordinances of the government of the city. He shall inspect the conduct of all subordinate officers of said city, and cause negligence or positive violation of duty to be prosecuted and punished. He shall, from time to time, communicate to the aldermen such information and recommend all such measures as in his opinion may tend to the improvement of the finances, the police, the health, security and comfort of the city.

Sec. 4. He is hereby authorized to call on every male citizen of said city over the age of eighteen years to aid in the enforcing of the laws and ordinances, and in case of riots to call out the militia to aid him in suppressing the same or other disorderly conduct, preventing and extinguishing fires, for securing the peace and safety of the city, or of carrying into effect any law or ordinance, and any person who shall not

HeinOnline -- 1873 141 1873

obey such call shall forfeit to said city a fine not exceeding twenty-five dollars.

Sec. 5. He shall have power, whenever he shall deem it necessary, to require of any of the officers of said city an exhibit of his books and papers.

Sec. 6. He shall have power to execute all acts that may be required of him by any ordinance made in pursuance of this act.

Sec. 7. He shall also have such power as may be vested in him by ordinance of the city in and over all places within five miles of the boundaries of the city for the purposes of enforcing the health and quarantine ordinances and regulations thereof.

Sec. 8. In case the mayor shall at any time be guilty of a palpable omission of duty, or shall wilfully and corruptly be guilty of oppression, mal-conduct, or partiality in the discharge of the duties of his office, he shall be liable to be indicted in the district court of the proper county, and, on conviction, he shall be fined not more than five hundred dollars, and the court shall have the power, upon the recommendation of the jury, to add to the judgment of the court that he be removed from office, and forever thereafter be disqualified from holding office under this act or any ordinances of said city.

ARTICLE VII.—*Miscellaneous Provisions.*

Section 1. The city council shall have the power, for the purpose of keeping the streets, lanes, avenues, and alleys in repair, to require every able-bodied male inhabitant in said city, over the age of twenty-one years, to labor on said streets, lanes, avenues, and alleys not exceeding one day in each and every year; and every person failing to perform such labor when duly notified by the street commissioners, shall forfeit and pay two dollars for said day so neglected or refused to be used in improving the public streets.

Sec. 2. The members of the city council and firemen shall, during their term of service as such, be exempt from working

HeinOnline -- 1873 142 1873

out any road or street tax, and shall likewise be exempt from serving in the militia of the territory or on any jury.

Sec. 3. The council shall have power to provide for the punishment of offenders by imprisonment, in all cases where such offenders shall fail or refuse to pay the fine and forfeiture which may be recovered against them according to the laws of this territory.

Sec. 4. The city council shall have power by ordinance to levy and collect a special tax on the holders of lots on any street, lane, avenue, or alley, according to their respective fronts, for the purpose of paving, grading, or planking sidewalks, and lighting such street, lane, avenue, or alley, provided such tax shall not exceed the actual costs of said sidewalks and lighting respectively, which tax shall be collected in the same manner as other city taxes.

Sec. 5. That no levy or assessment of taxes, not heretofore provided for, shall be made by said city council, except upon a vote of two-thirds of the members thereof, and every levy of taxes for each purpose shall be set forth in a section of an ordinance by itself.

Sec. 6. After the passage of such ordinance by such vote, the same shall be published in two city newspapers for at least one week, together with a notice that the same will be submitted to a vote of the freeholders and householders of said city, on a day and at a place in each of the wards to be named, which election shall be conducted as is provided in other cases, and the ballots shall be for section (—) of an ordinance, entitled (giving title), or against section (—) of an ordinance entitled (giving title); and if two-thirds of said voters shall approve the same, the said ordinance shall be in full force, but if not so approved the same shall be void.

Sec. 7. The city council shall provide the detailed method of conducting such election not inconsistent with this act, but nothing in this and the two preceding sections shall effect the passage of ordinances levying taxes for the maintenance of the city police (not exceeding two in number), the payment of night fire watchmen (not exceeding two in number), paraphernalia for extinguishing fires, cleaning streets, enclosing

HeinOnline -- 1873 143 1873

and protecting cemeteries, maintaining and keeping in repair the property of the fire department, and necessary notices in two of the city newspapers.

Sec. 8. That the city shall not be liable for any costs in any suit prosecuted in its name in its own courts; nor shall any fees taxed exceed in amount the items of fees allowed for similar services to other officers in this territory.

Sec. 9. All fines and forfeitures collected for offenses committed, or penalties incurred within the incorporation limits of the city of Helena, shall be paid into the treasury of the said city by the officer collecting the same, with details of sources and on what account paid out.

Sec. 10. The city council shall cause to be published, annually, a full and complete statement of all moneys received and expended, from whatever source received and what account paid out, with full details.

Sec. 11. All suits, actions, and prosecutions instituted, commenced, or brought by the corporation hereby created, shall be prosecuted in the name of the City of Helena.

Sec. 12. Appeals shall be allowed from decisions in all cases arising under the provisions of this act, or any ordinance passed in pursuance thereof, to the district court, and every such appeal shall be granted in the same manner and with like effect as appeals are taken from and granted from justices of the peace under the laws of this territory.

Sec. 13. No mayor or alderman of said city shall, during the period for which he is elected, be directly or indirectly pecuniarily interested in any contract let or to be let under the authority of said city, or in any payment to be made thereon, and if any such person shall violate the provisions of this section, he shall be deemed guilty of a misdemeanor under the laws of this territory, and shall be prosecuted therefor in the district court, and, on conviction thereof, shall be fined not less than two hundred and fifty dollars or more than six hundred dollars, or imprisonment three months, or both such fine and imprisonment, and in all contracts involving the expenditure of one hundred dollars or more, the city council shall advertise the same, with specifications, for a period to be pre-

HeinOnline -- 1873 144 1873

scribed by ordinance, and award the same to the lowest bidder, and they shall so advertise all contracts when convenient so to do.

Sec. 14. Whenever the mayor shall absent himself from the city, or resign, or die, or his office shall otherwise become vacated, the board of aldermen shall immediately proceed to elect one of their number president, who shall be mayor *pro tem* until the office shall be filled by election as herein provided.

Sec. 15. This act is declared to be a public act, and may be read in evidence in all courts of law and equity within this territory without proof.

Sec. 16. The city marshal and the constables within said City of Helena, shall be authorized and have power to execute anywhere within the county wherein said city may be located, all process issued by the police magistrate of said city, or other magistrate within the said city, and the said marshal shall have power to do all the acts that a constable may lawfully do, and shall receive the same fees that are allowed to constables in similar cases, and shall give bonds as constables are required by law to give.

Sec. 17. All actions brought to recover any penalty or forfeiture under this act, or any ordinance, by-law, or police regulation, made in pursuance thereof, shall be brought in the corporate name of said city.

Sec. 18. In all prosecutions for any violation of any ordinance, by-law, or other regulation, the first process shall be by summons, unless oath or affirmation shall be made for a warrant, as in other cases.

Sec. 19. Upon rendition of judgment the officer rendering such judgment may require the defendant to be confined in ail for a term not exceeding three months; and all persons so committed shall be fined one day for each five dollars of such judgment and costs, unless he shall pay the same.

Sec. 20. The police magistrate shall have jurisdiction in all cases of violation of the city ordinance, and shall have the same jurisdiction in all civil and criminal proceedings as is now or shall hereafter be conferred upon other justices of the

HeinOnline -- 1873 145 1873

peace of this territory; and in all courts of this territory said police magistrate shall be held to be and he is hereby constituted a justice of the peace. But no change of venue shall be allowed from said police magistrate to any other justice of the peace for the hearing or determination of any case when proceedings shall be commenced against any person or persons for the violation of any city ordinance.

Sec. 21. The duties of all officers mentioned in this act, not herein prescribed, shall be prescribed by ordinance.

Sec. 22. That W. K. Roberts, A. M. Holter, John H. Ming and M. Moore, be and they are hereby constituted and appointed to act as commissioners, and to serve in such capacity until the first board of aldermen of said city shall be elected and duly qualified. Said commissioners, or any three of them, shall, on or before the third Monday in May, A. D. 1873, proceed to lay out the territory embraced within the limits of the said city of Helena into four wards and fix the boundaries of the same; and shall also provide for holding the first election herein appointed in the several wards of said city; shall fix the place for holding said election in each of said wards; shall appoint the persons to act as judges of election in each of said wards, who shall be sworn, and whose places may be filled in case they do not serve, as provided by law in other elections; said election shall be held and returns thereof be made and certified in all respects as provided by law for the election of members of the legislative assemby. A copy of said returns of said election shall be delivered to the commissioners, who shall canvass the same within three days from the time received, and the persons receiving the highest number of votes for the several officers to be elected under this act, and the aldermen for each ward, shall be declared by said commissioners, or any two of them, duly elected to said offices. If two or more persons shall at said election receive the same number of votes for one of said offices, the commissioners shall determine the same by lot.

Sec. 22. This charter shall be submitted to the qualified voters of the city of Helena, at the same time and at the same places where the officers under this charter are to be elected

HeinOnline -- 1873 146 1873

by the direction of the commissioners appointed in this act. The ballots shall have written or printed thereon "For the Charter," or "Against the Charter," and if a majority of the votes so cast at the election shall be in favor of the charter, then this act to be in full force and effect; but if a majority of the votes so cast shall be against the charter, then this act shall remain suspended, unless thereafter enforced as hereinafter set forth.

Sec. 23. In case of the rejection of this charter by a majority of the voters at the first election, at any time thereafter when sixty of the qualified voters of said city shall petition the county commissioners of Lewis and Clark county for a resubmission of said charter to the voters of said city, then it shall be the duty of said county commissioners to again submit the adoption or rejection of this charter to a vote of the qualified voters of said city, and if, upon said second submission, a majority shall adopt this charter, then the same shall be in full force and effect from the time of its adoption.

Sec. 24. There shall be a police magistrate, city clerk, city assessor, city treasurer, and city marshal appointed as is hereinbefore provided. The police magistrate shall be a justice of the peace, and shall have the jurisdiction of a justice of the peace in said county, and he shall have exclusive jurisdiction of all offences against the ordinances of said city. The city clerk, city assessor, city treasurer, and city marshal shall severally discharge the duties usually pertaining to said offices respectively; and the manner thereof may be prescribed by ordinance.

Sec. 25. This act shall take effect and be in full force from and after its passage.

Approved May 5th, 1873.

HeinOnline -- 1873 147 1873

RESOLUTIONS.

House Joint Resolution for the purpose of procuring the *Daily Montanian* for members of the legislature.

Be it resolved by the House and Council of the Legislative Assembly of the Territory of Montana:

That the publisher of the "*Daily Montanian*" be requested to furnish four copies of that journal daily to each member of the house and council, so long as the same contains the proceedings of the two bodies, and the same continues in this extra session.

And the auditor of the Territory of Montana be and he is hereby ordered to audit the bill for said papers furnished, and draw his warrant in favor of the publisher, on the territorial treasurer, for the amount of four hundred and eighty dollars.

NOTE BY THE SECRETARY.—The foregoing act having been presented to the governor of the territory, on the fifth day of May, 1873, for his approval, and not having been returned by him to the Legislative Assembly in which it originated, within the time prescribed by the organic act of the territory, has become a law without his approval.

RESOLUTIONS.

House Joint Resolution concerning obstructions in the Upper Missouri river.

Resolved, by the House of Representatives, the Council concurring:

That our delegate in congress be and is hereby requested to use all honorable means to obtain an appropriation for the purpose of clearing the obstructions to navigation from the Upper Missouri river.

Approved April 26, 1873.

HeinOnline -- 1873 148 1873

RESOLUTIONS.

Council Joint Resolution authorizing W. H. Rogers, territorial auditor, to draw warrant on territorial treasury for balance of salary due him.

Be it enacted by the Legislative Assembly of the Territory of Montana:

That W. H. Rogers, territorial auditor, is hereby authorized to draw a warrant on the territorial treasurer, in favor of himself, for the sum of six hundred and six dollars and twenty-six cents, the said amount being a balance due him for salary as such auditor for the sixteen months ending April 30th, 1873. Said sum is hereby appropriated out of any money in the territorial treasury not otherwise appropriated.

The foregoing resolution having been presented to the governor of the territory for his approval, was, on May 6th, 1873, returned to the council in which it originated, without his approval, and with his objections thereto. The objections were entered at large upon the journal of the council The vote by which the resolution was passed was reconsidered, and on the question, "Shall this resolution pass, the objections of the governor to the contrary notwithstanding?" it was passed by a two-thirds vote of the council. The resolution was then sent to the house of representatives, together with the objections of the governor. The vote by which the resolution was passed by the house was then reconsidered, and upon the question, "Shall this resolution pass, the objections of the governor to the contrary notwithstanding?" it was passed by a two-thirds vote of the house.

RESOLUTIONS.

For the relief of L. M. Todd.

Resolved, by the Council and House of Representatives of the Territory of Montana:

That the territorial auditor is hereby authorized and directed to issue to L. M. Todd a warrant on the territorial treasury for the sum of one hundred and seventeen dollars and forty-four cents, for balance on transportation of arms and military

HeinOnline -- 1873 149 1873

stores, from Helena, Montana, to the arsenal at Virginia City, Montana territory.

Approved April 26, 1873.

RESOLUTIONS.

Council Joint Resolution to pay Geo. F. Cope for printing for Legislative Assembly.

Resolved, by the Council, the House concurring:

That the sum of five hundred and ninety-three dollars is hereby appropriated out of any moneys in the territorial treasury to Geo. F. Cope, for printing the different bills of this legislative assembly, and the auditor is hereby authorized to draw his warrant on the treasurer of the territory for the said sum.

Approved May 5, 1873.

RESOLUTIONS.

House Joint Resolution appointing special committee to draft and introduce a "License Law."

Resolved, by the Council, the House concurring:

That a joint committee, consisting of two members of the council and two members of the house, be appointed by the president and speaker, respectively, whose duty it shall be to prepare and introduce a "license law," and to whom all bills relative to the existing license law that may be introduced in either house shall be referred.

Approved April 21, 1873.

HeinOnline -- 1873 150 1873

MEMORIAL.

Memorial concerning an assay office in the Territory of Montana.

The memorial of the Legislative Assembly of the Territory of Montana, to the Senate and House of Representatives of the United States, asking for the establishing of a United States Assay Office in the Territory of Montana:

The legislative assembly would most respectfully show to your honorable bodies, that during the last session of the forty-second congress, a bill passed both house thereof, providing for the establishment of an assay office in this territory, but that owing to the confusion and haste incident to the closing hours of that session, as the legislative assembly is informed, said bill failed to receive the approval and signature of the President, and thereby failed to become a law.

The legislative assembly further shows, that the gradual development of the gold and silver mines in this territory gives the fullest assurance of the immense mineral wealth of the territory, and demonstrates that the quartz lodes of the territory are of great extent and permanence, and of exceeding richness.

The railroad enterprises, having this territory for their objective point, by greatly enlarging the mining industry, will, in a near future, also greatly augment the necessity for the assay office contemplated by the bill, which, for the reasons aforesaid, failed to become a law.

It is more than one thousand miles to the nearest assay office, or branch mint of the United States, and the means of conveyance are inadequate and expensive, and this great industry, which has heretofore received the considerate attention and fostering care of your honorable bodies, here labors under burdensome and oppressive difficulties.

HeinOnline -- 1873 151 1873

It is the judgment of the legislative assembly, that notwithstanding the difficulties, the product of the precious metals in this territory will amount to seven million five hundred thousand dollars for the current year.

With the increased production promised, the difficulties of our situation will become more onerous and more oppressive.

The establishment of an assay office within the territory is the only relief apparent to the legislative assembly, and the interest of the general government would seem to coincide with those of this territory, in requiring such an establishment here. Your memorialists would therefore most earnestly petition your honorable bodies to provide for the early establishment, in this territory, of a government assay office; and as in duty bound, your petitioners will ever pray.

Approved April 30th, 1873.

HeinOnline -- 1873 152 1873

INDEX

TO THE

CONSTITUTION OF THE UNITED STATES AND THE AMENDMENTS THERETO.

Constitution, 1–13.
Amendments, 14–18.
Adjournment of Congress, 4.

APPORTIONMENT. See *Congress.*

ARMY and navy.
President commander-in-chief of, 9.

ARMS.
Right of peple to bear, 14.

ARREST.
Members of Congress privileged from, 4.

BAIL.
Excessive, not to be required, 15.

BILLS.
How become laws, 4.
When become law without president's approval, 4, 5.
Of attainder — none shall be passed, 6.
Of credit—no state shall emit, 6.
For raising revenue—shall originate in House of Representatives, 4.

CITIZENS of the United States.
Who are, 17.
Of states, 17.
Privileges of, 11, 17.
Rights of, 17.

CONGRESS.
Legislative powers vested in, 1.
What consists of, 1.
Apportionment of Representatives, 1.
To meet annually, 3.

CONGRESS — *Continued.*
Adjournment of, 4.
Powers of, defined and enumerated, 5.
To make rules and regulations respecting territory and other United States property, 12.
Members of, privileged from arrest, 4.
Members of, disqualified from holding office, 4.
Veto power over acts of, 4.
To make laws to carry out provisions of the constitution, 6.
Votes for president and vice-president opened and counted in presence of, 16.
Each house may adopt its own rules, etc., 4.

CONSTITUTION of the United States.
Preamble to, 1.
Amendments to, 14.
Amendments to, how made, 12.
Laws made in pursuance of, supreme, 13.
Ratification of, 13.
Powers not delegated in, reserved, 16.

COURTS of the United States.
Judges of, hold office during good behavior, 10.
Jurisdiction of, 10.

ELECTORS.
Presidential, how elected, 8.

HeinOnline -- 1873 153 1873

ELECTORS — *Continued.*
Time of choosing, prescribed by Congress, 8.

ELECTIONS.
For president and vice-president, 8, 16, 17.
For senators and representatives, 3.
Times and places of holding, 3.
How prescribed, 3.
Each house of Congress judges of, 3.

EXECUTIVE. See *President.*

EX POST FACTO laws.
None shall be passed, 6.

FUGITIVES.
From justice delivered up, when, 11.
From service or labor, 11.

GRAND jury.
Accused to be presented by, exceptions, 15.

HABEAS CORPUS.
Shall not be suspended — exceptions, 6.

HOUSE of Representatives of the United States.
How composed, 1.
Apportionment of members of, 1.
Vacancies in, how filled, 3.
Judges of qualifications of its members, 4.
To choose its officers, 3.
To keep a journal of its proceedings, 4.
May determine its rules, etc., 4.
Revenue bills to originate in, 4.
Who may be members of, 1.
Have sole power of impeachment, 3.
Compensation of members, 4.
Adjournment of, 4.
When may elect president, 16.

IMPEACHMENTS.
Senate sole power to try, 3.
Concurrence of two-thirds necessary to convict, 3.
How far judgment in shall extend, 3.

JUDICIAL power.
How vested, 10.
To what shall extend, 10.
All crimes, except in cases of impeachment, tried by jury, 10.
Judicial power construed, 16.

JURY.
Right of trial by, 11, 16.

JUDGMENTS.
In cases of impeachment, 3.

JURISDICTION. See *Courts.*

LAWS.
No ex-post facto to be passed, 6.
In pursuance of constitution, supreme, 13.

MONEY. See *Treasurer.*

NAVY. See *Army and Navy.*

NOBILITY.
No title of, to be granted, 6.

PRESIDENT of the United States.
Term of office of, 7.
How elected, 7, 16, 17.
Qualifications of, 8.
May be impeached, 10.
When tried chief justice to preside, 3.
Oath of office, 6.
Commander-in-chief of army and navy, 9
Duties and powers of, 9.
May be removed on impeachment, 10.
Shall commission all officers, 10.
Bills to be presented to, for approval, 4.
Veto power of, 4.
Compensation of, 9.

PRESENTS.
No officer of the United States to accept, from foreign powers, 6.

PRIVILEGES.
Of members of Congress, 4.
Of citizens of the United States, 11, 17.

POWERS.
Not delegated reserved, 16.

REPRESENTATIVES. See *Congress, House of Representatives.*

REVENUE.
Bills for, where to originate, 4.
Senate may propose amendments to, 4.

RELIGION.
Congress shall make no law establishing, 14.

SENATE of the United States.
Sole power to try impeachments, 3.
How composed, 3.
Shall be judge of its members, 4.
Who may be members of, 3.
Vacancies in, how filled, 3.
Trials of impeachment by, 3.
To keep a journal of its proceedings, 4.

HeinOnline -- 1873 154 1873

SENATE — *Continued,*
To determine rules of its proceedings, 4.

SENATORS of the United States.
Who may be a senator, 3.
How chosen, 3.
Term of office, 3.
Classification of, 3.
Compensation of, 4.
Disqualified during term from holding office, 4.

SLAVERY.
Abolished in the United States, 17.

STATE.
Not to make treaty of alliance, 7.
Not to lay imposts or duties, 7.
Not to grant letters of marque, 7.
Not to coin money or emit bills of credit, 7.
Not to impair obligation of contracts, 7.
Not to lay duty of tonnage, 7.
Not to keep troops or ships of war, 7.
New states, how admitted, 12.
Powers not delegated reserved, 16.
No new state erected out of old without consent, etc., 12.

SOLDIER.
In time of peace not quartered in any house without consent of owner, 14.
In time of war, as prescribed by law, 14.

SEARCH and Seizure.
Right of people against, 14.

TRIAL by Jury.
Right of, 11.

TRIAL.
Accused's right to speedy trial, 15.

TREASURY.
Money to be drawn only in pursuance of law, 6.

TREASON against the United States.
What deemed, 11.
Effect of conviction for, 11.

UNITED States of America. See *Constitution.*

VACANCIES.
In representation of any state—how filled, 3.

VICE-PRESIDENT of the United States.
General duties and powers of, 3.

HeinOnline -- 1873 155 1873

INDEX

TO THE

ORGANIC ACT OF MONTANA TERRITORY AND THE ACTS AMENDATORY THERETO.

Organic act, p. 15.
Amendatory organic act, p. 24.
Amendment of January 23d, 1873, p. 34.

APPEALS.
From supreme court, 24, § 9.
From district courts, 24, § 9.
From probate courts, 31, § 2.

APPORTIONMENT. See *Legislative Assembly.*
How made, 32, § 5.

ASSOCIATE justices.
How appointed, 26, § 11.
Oath of office, 26, § 11.
Term of office, 24, § 9.
Salary of, 26, § 11.
Salary of, increased, 32, § 3.
See *Supreme Court.*

ATTORNEY, United States.
Term of office, 26, § 10.
How appointed, 26, § 11.
Duties of, 26, § 10.
Fees and salary of, 26, § 10.
To take oath of office, 26, § 11.

BILLS.
Passing legislature presented to governor, 23, § 6.
When become law without governor's approval, 23, § 6.

BOUNDARY
Of Montana, 19, 20, § 1.

CAPITAL of territory.
How located, 28, § 12.
How changed, 28, § 12.

CHIEF justice.
How appointed, 26, § 11.
Oath of office, 26, § 11.
Term of office, 24, § 9.
Salary of, 26, § 11.
Salary of, increased, 32, § 3.
See *Supreme Court.*

CLERKS.
Of supreme court—how appointed, 24, § 9.
Duties and powers of, 24, § 9.
Fees of, 24, § 9.
Tenure of office, 24, § 9.
Of district courts—how appointed, 24, § 9.
Tenure of office, 21, § 9.
Fees of, 24, § 9.

CONGRESS. See *Delegate to Congress.*

COUNCIL.
Number of members, 21, § 4.
Qualifications for, 21, § 4.
How elected, 21, § 4.
Vacancies—how filled, 21, § 24.
Compensation of, 26, § 11.
To choose its own officers, 26, § 11.
See *Legislative Assembly*, 21, § 4.

COURTS.
See *Supreme Court.*
See *District Court.*
See *Probate Court.*
See *Justices of the Peace.*

DELEGATE to Congress.
How elected, 29, § 13.
Qualifications for, 29, § 13.
Term of office of, 29, § 13.
Rights and privileges of, 29, § 13.

HeinOnline -- 1873 156 1873

DISTRICT courts.
By whom held, 24, § 9.
Jurisdiction of, 24, § 9.
Appeals and writs of error from, 24, § 9.
Times and places of holding, 32, § 4.
Judges of, how assigned, 32, § 4.
Judges of, where to reside, 24, § 9.

EXCEPTIONS. See *Appeals.*

EXECUTIVE. See *Governor.*

ELECTIONS. See *Voters.*
To be held as prescribed by law, 21, § 4.
For delegates to congress, 29, § 13.

FEES. See *Clerks.*

GOVERNOR.
Term of office, 20, § 2.
How appointed, 26, § 11.
Duties and powers of, 20, § 2.
When secretary of territory to act as, 21, § 3.
Where shall reside, 20, § 2.
Legislative power of, 21, § 4,
Veto power of, 23, § 6.
To appoint certain officers, 24, § 7.
Oath of office of, 26, § 11.
Salary of, 26, § 11.
When bills become law without signature of, 23, § 6.
When may call sessions of legislature, 26, § 11.
Salary under amended law, 34, § 3.
See *Legislative Assembly.*

HOUSE of representatives.
Number of members of, 21, § 4.
How elected, 21, § 4.
Qualifications of, 11, § 4.
Vacancies in, how filled, 21, § 4.
To choose its own officers, 26, § 11.
Members, where to reside, 26, § 4.
Compensation of members of, 26, § 11.
Compensation of members under amended law, 34, § 2.
See *Legislative Assembly.*

JUDICIAL districts.
Territory divided into, 24, § 9.
Defined by supreme court, 32, § 4.

JUDICIAL power.
In what courts vested, 24 § 9.

JUDGES of supreme court. See *Chief Justice* and *Associate Justices.*

JURISDICTION.
Of supreme court, 24, § 9.
Of district courts, 24, § 9.
Of probate courts, 24, § 9.
Of justices' courts, 24, § 9.

JUSTICES of the peace.
Jurisdiction of, limited by law, 24, § 9.

LANDS.
What appropriated for schools, 29, § 14.

LEGISLATIVE assembly.
Powers vested in, 21, § 4.
Subjects of legislation, 23, § 6.
Of whom consists, 21, § 4.
Number of members of, 21, § 4.
Compensation of, 26, § 11.
Compensation of under amended law, 34, § 2.
Apportionment for, 22, § 4.
Officers of, 26, § 11.
Officers of under amended law, 34, § 2.
Compensation of officers of, 26, § 11.
Compensation of officers under amended law, 34, § 2.
Sessions, when held, 26, § 8.
Sessions limited, 34, § 2.
Not to grant private charters, 31, § 1.
May pass general incorporation acts, 31, § 1.
Functions of, revived, 32, § 5.
Members of, not to hold office when, 34, § 8.
See *Governor.*

MARSHAL, United States.
How appointed, 26, § 10.
Term of office, 26, § 10.
Fees and salary of, 26, § 10.
Duties of, 26 § 10.

OFFICERS.
What to be elected, 24, § 7.
What to be appointed, 24, § 7.
Appointments, how made, 24, § 7.
To take oath of office, 26, § 11.
Of legislative assembly 26, § 11.
Of legislature under amended law, 34, § 2.
Disbursing, to give bond, 30, § 16.
Of township, 24, § 7.
Of district, 24, § 7.
Of county, 24, § 7.

PROBATE courts.
Jurisdiction of, limited by law, 24, § 9.
Jurisdiction of, defined, 31, § 2.

HeinOnline -- 1873 157 1873

PROBATE courts — *Continued.*
Denied chancery powers, 31, § 2.
Appeals from, 31, § 2.

SEAT of government. See *Capital.*

SCHOOLS.
Lands appropriated for, 29, § 14.

SECRETARY.
How appointed, 26, § 11.
Term of office, 21, § 3.
Duties and powers, 21, § 3.
When to act as governor, 21, § 3.
Oath of office, 26, § 11.
To record certificates of oaths of certain officers, 26, § 11.
Salary of, 26, § 11.
Salary of under amended law, 34, § 3.
Duties as disbursing officer, 26, § 11.
To give bond, 30, § 16.

SLAVERY.
Prohibited, 23, § 6.

SOIL.
Primary disposal of, 24, § 9.

SUPREME court.
Of what shall consist, 24, § 9.
Terms of, 24, § 9.
When held, 24, § 9.
Shall appoint its clerk, 24, § 9.
Appeals from, 24, § 9.

SURVEYOR general.
How appointed, 26, § 10.
Office, where located, 26, § 10.
Duties and powers of, 26, § 10.
Compensation of, 26, § 10.

TAXES.
United States property exempt, 23, § 6.
Non-residents not more than residents, 23, § 6.

VOTERS.
Qualifications of, 23, § 5.

WRITS of error. See *Appeals.*

AMENDMENT OF JANUARY 23, 1873.

ACT fixing compensation of members and officers of legislative assembly and of governor and secretary, 34, §§ 1–4.
Sessions of legislature limited, 34, § 1.
Compensation of members and officers, 34, § 2.
Salaries of governor and secretary, 34, § 3.
Limitations of act, 34, § 4.

HeinOnline -- 1873 158 1873

GENERAL INDEX.

A

ACCOUNTS.
Of prison, how kept, 89, § 8.

ACKNOWLEDGEMENT.
Of certificate of railroad incorporation, 93, § 3.

ACTION.
How prosecuted by pauper, 40, § 1.
Right of, not revived, 83, § 1.

ACTS amended.
Act concerning assessors, 38.
Civil practice act, 39, 40, 41.
Criminal practice act, 43, 44.
Act relating to district attorneys, 48.
Act relating to elections, 48.
Act relating to estrays and lost goods, 49.
Act in relation to killing game, 66.
Act in relation to sale of intoxicating liquors, 69.
Act in relation to jurors, 70.
Act in relation to justices and constables, 71.
Act in reference to limitations, 83.
Act relating to notaries public, 84.
Act relating to schools, 122.
Amending an act to incorporate the historical society of Montana, 131.
Amending an act authorizing the commissioners of Missoula county to levy a special tax, 132.
Acts of assessors declared valid, 38, § 1; 38, §§ 1, 3.

ADMINISTRATORS and executors.
Act in relation to, 35.
Sale of mining claims of decedent, 35, § 1.

ADVERSE party.
When to state defense, 42, § 202.

AFFIDAVIT.
Of poor person as to costs, 40, § 1.

AMENDMENTS.
See *Acts Amended.*

ANTELOPE.
See *Game.*

APPOINTMENT.
Of directors of penitentiary, 86, § 1.
Of warden of same, 88, § 5.
Of physician and guard of same, 89, § 7.

APPROPRIATION.
To print auditor's and treasurer's reports, 133.
Giving auditor back pay, 149.
For removing stores to arsenal, 149.
For printing for legislature, 150.

APPROPRIATIONS.
Act making certain, 36.
To Montana law library, 36, § 1.
To historical society, 36, § 2.
How same paid, 36, § 3.

ARREST.
Of pardoned person, violating conditions of pardon, 44, § 1.
Of person charged with felony, after jury sworn, 45, § 1.

ASSAULT.
By prisoner attempting escape, 45, § 1.

ASSAYER.
To pay license, 73, § 1.

ASSESSORS.
Acts of legalized, 38, § 1; 38, §§ 1, 3.
Fees of established, 60, § 1.

ATTACHMENT.
Amendment as to, 40, § 2.

AUCTIONEER.
To pay license, 76, § 6.

AUDITOR.
See *Territorial Auditor.*

HeinOnline -- 1873 159 1873

B

BAKER.
To pay license, 74, § 2.

BANKER.
To pay license, 74, § 2.

BILL.
Of fees to be furnished, 64, § 3.

BILLIARD table.
License for, 73, § 1.

BIRDS.
See *Game.*

BOND.
Of notary public, 85, § 2.
Of directors of penitentiary, 86, § 1.
Of warden of same, 88, § 5.
Of guards of same, 89, § 7.

BONDS.
Issued funding indebtness, 65, § 1.
See *Official Bonds.*

BOOKS.
Of warden, directors to examine, 87, § 4.
Of railroad company, opened for subscription, 96, § 7.

BOWLING ALLEY.
Keeper of, to pay license, 80, § 18.

BRIDGES.
Chartered, liable to license, 79, § 13.

BURDEN of proof.
Party having, first to proceed, 42, § 202.
See *Civil Practice Act,* 41.

BUTCHERS.
To pay license, 78, § 12.

C

CAPITAL stock.
Of railroad corporation, 95, § 5.
Directors may sell, when, 95, § 6.
Increase of, 104, § 21.

CERTIFICATE.
Of qualification of notary, 85, § 2.
Of incorporation of railroad company, 93, § 2.
When filed and recorded, 93, § 2.

CITY.
Unlawful to discharge fire-arm in, 46, § 1.

CITIZEN.
Qualification of, for elector, 49, § 1.

CIVIL practice act.
Acts amending, 39, 40, 41.
Proceeding when costs overtaxed, 39, § 1.
Amendment relating to attachment, 39, § 2.
Right of poor person to prosecute suit without costs, 40, § 1.
Order in which trials shall proceed, 42, § 2.

CLERK.
Overtaxing costs, 39, § 1.

CLERK of district court.
Fees of, established, 54, §§ 1, 2.
Certificate by, of qualification of notary, 85, § 2.

CLERK of election.
Fees of, established, 54, § 3.

CLERK of probate court.
Fees of, established, 61, § 1.

COLLECTOR.
See *County Treasurer.*
See *Tax Collector.*

COLLECTIONS.
Per centage allowed sheriffs and constables, 51, § 1; 54, § 2.

COMMISSIONS.
Allowed sheriffs and constables, 51, § 1; 54, § 2.

COMMON schools.
See *Schools.*

COMPENSATION.
See *Salaries.*

CONDITIONS.
Pardons may be granted on, 44, § 1.

CONFECTIONERY.
See *Baker—Licenses.*

CONDEMNATION.
For railroad purposes, 97, § 9.

CONSENT.
For selling mining claims of decedent, 35, § 1.

CONSTABLES.
Fees of, established, 54, § 2.
Election of, 71, § 112.

CONSTRUCTION of railroads.
See *Railroads.*

CONTRACT.
For supplies for penitentiary, 89, § 9.
Concerning convict labor, 90, § 14.

HeinOnline -- 1873 160 1873

CONVICTS.
Register of, to be kept, 89, § 8.
To be kept employed, 90, § 14.
As to treatment of, 91, § 15.
Credited with good behavior, 91, § 16.
Of the United States, 92, § 17.

CORPORATION, for railroad purposes.
See *Railroads.*

CORONER.
Fees of, established, 60, § 2.

COSTS
Re-taxing of, 39, § 1.
Poor person may prosecute without, 40, § 1.
Bill of, to be furnished, 64, § 3.
See *Fees.*

COUNTY assessor.
Acts of, declared valid, 38, § 2.

COUNTY commissioners.
Acts of legalized, 38, § 1.

COUNTY clerk and recorder.
Fees of established, 52, §§ 1, 4.

COUNTY finance.
Act repealing sec. 2, chap. 27; 47.

COUNTY superintendent.
Salary of, 63, § 2.

COUNTY treasurer.
Fees of established, 57, §§ 1, 3
Mileage allowed, 57, § 1.
Duty under license law, 81, § 22.
Penalty for neglecting same, 82, § 24.

COURT.
Question of pre-payment of costs left to whom, 40, § 1.
Shall give, or refuse instructions, 42, § 202.
To appoint foreman of grand jury, 43, § 1.
May order defendant arrested in case of felony, when, 45, § 1.

CRIMINAL laws.
Prisoner attempting, or escaping penitentiary, 45, § 1.
Same breaking or attempting, escape jail, 46, § 2.
Printed copy of act posted in prison, 46, § 3.
Unlawful to discharge fire-arms in town or city, 46, § 1.
Penalty therefor, 46, § 2.
Fines, paid to school fund, 47, § 3.

CRIMINAL practice act.
Act amending, 44.
Concerning pardons, 44, § 1.
Act amending, 45.
When defendant may be ordered in arrest, though under bail, 45, § 1.

D

DAMAGES.
Selling intoxicating liquors to drunkard or minor, 70, § 2.
By railroad corporation, 97, § 9.

DANCING saloon.
Prohibited, 69, § 1.

DEAD bodies.
Of game, presumption of guilt, 67, § 4.

DECEASED persons.
When mining claims of, sold, 35, § 1.

DEER.
See *Game.*

DEFENDANT.
In case of felony, may be ordered in arrest, though under bail, 45, § 1.

DELINQUENT tax-payer.
Collector to proceed against, 81, § 22.

DENTIST.
To pay license, 75, § 5.

DIRECTORS.
Of railroad company, 95, § 7.

DIRECTORS of penitentiary.
Appointment of, 86, § 1.
Duty to organize, 87, § 2.
Majority to constitute quorum, 87, § 3.
General duties of, 87, § 4.

DISTRICT attorney.
Election and term of office, 48, § 1.
Fees and salary of, 63, § 1.

DRUGGIST.
To pay license, 75, § 5.

DRUNKARD.
Penalty for furnishing intoxicating liquors to, 69, § 1.

E

ELECTION.
Of district attorneys, 48, § 1.
Of justices and constables, 71, § 112.
Of railroad directors, 95, § 7.

HeinOnline -- 1873 161 1873

ELECTIONS.
Act amending law, 48.

ELECTOR.
Qualification of, 48, ¿ 1.

EMPLOYE.
Liability of railroad company to, 104, ¿ 20.

ERROR.
Not assignable, on decisions as to costs of poor person, 40, ¿ 1.

ESCAPE.
Convict pardoned, violating conditions of, deemed, 44, ¿ 1.
Prisoner attempting, 45, § 1.

ESTRAYS and lost goods.
Act repealing act concerning, 49, ¿ 1.

EVIDENCE.
Order of producing on trial, 42, ¿ 202.

EXECUTION.
Against delinquent tax-payers, 81, ¿ 22.

EXPRESS company.
To pay license, 80, § 19.

F

FEES.
For rearresting convict on warrant of governor, 44, ¿ 1.
Of sheriff, established, 50, ¿¿ 1, 2.
Of county clerk and recorder, 52, ¿¿ 1, 4.
Of witnesses and jurors, 53, ¿ 1.
Of constables, 54, ¿ 2.
Of judges and clerks of elections, 54, ¿ 3.
Of messenger conveying election returns, 54, ¿ 4.
Of clerk of district court, 54, ¿¿ 1, 2.
Of county treasurer, 57, ¿¿ 1, 3.
Of justices of the peace, 58, ¿¿ 1, 3.
Of assessors, 60, § 1.
Of coroner, 60, ¿ 2.
Of notaries public, 60, ¿ 3.
Of probate judge and clerk, 61, ¿ 1.
Of district attorney, 63, ¿ 1.
Officer receiving to keep list posted, 64, ¿ 1.
Amount endorsed on process, 64, ¿ 2.
Certified bill of furnished, 64, ¿ 3.
Receipt for, on payment, 64, § 4.
Term "folio," as relates to, 64, ¿ 1.

FELONY.
When defendent may be ordered in arrest, though under bail, 45, ¿ 1.

FERRIES.
Chartered, to pay license, 79, ¿ 14.

FINE.
For discharging fire-arm in city or town, 46, ¿ 1.

FINES.
Under game law, 67, § 9.

FIRING.
Gun or pistol in city or town, 46, ¿ 1.

FISH.
How may be taken, 67, ¿¿ 5, 6, 7.

FOREMAN.
Of grand jury, appointed by court, 43, ¿ 1.

FORFEITURE.
Of charter of railroad, 101, ¿ 12.

FUNDING indebtedness.
Act concerning, 65.
Territorial treasurer may issue bonds, 65, ¿ 1.

G

GALLATIN county.
Act concerning vagrants and idlers in, 127.

GAMBLING saloon.
Keeper of, to pay license, 78, ¿ 1.

GAME.
Act concerning protection of, 66.
When unlawful to kill, 66, ¿¿ 1, 2, 3.
Possession of, presumption of guilt, 67, § 4.
Lawful way to fish, 67, ¿ 5.
Hook not baited with poison, 67, ¿ 6.
Modes of fishing forbidden, 67, ¿ 7.
Penalty for violating act, 67, § 8.
Fines under act, 67, ¿ 9.
Grand jury to inquire into violations of, 68, ¿ 10.
Former act repealed, 68, ¿ 11.

GOOD behavior.
Convicts credited with, 91, ¿ 16.

GOVERNOR.
Reports made to concerning law library and historical society, 36, ¿ 3.
May grant pardons on conditions, 44, ¿ 1.
To appoint directors of penitentiary, 86, ¿ 1.

HeinOnline -- 1873 162 1873

GRAND juror.
Qualifications of, 71, § 8.

GRAND jury.
Of what number composed, 43, § 1.
To inquire into infractions of game law, 68, § 10.

GROUSE.
See *Game.*

GUARDIAN.
Consent of, to sell mining claims of decedent, 35, § 1.

GUARDS of penitentiary.
How appointed, 89, § 7.

H

HARE.
See *Game.*

HAWKER.
To pay license, 77, § 9.

HEIRS.
Consent of, to sell mining claims, 35, § 1.

HELENA.
Act to incorporate town of, 134.

HERDER.
To pay license, 74, § 2.

HISTORICAL Society of Montana.
Annual appropriation for, 36, § 2.
Officers of, to report to governor, 36, § 3.
Act amending act concerning, 131

HOTELS.
Keeper of to pay license, 76, § 7.

HURDY houses.
Prohibited, 69, § 1.

I

INCORPORATION.
Of railroad company.
See *Railroads.*

INSURANCE company.
To pay license, 73, § 1.

INTELLIGENCE office.
To pay license, 73, § 1.

INTENTION.
Person declaring to become citizen, elector, 49, § 1.

INTOXICATION.
Person addicted to, not appointed to office in penitentiary, 89, § 10.

INTOXICATING liquors.
Act concerning sale of, 69.
Penalty, furnishing to drunkard or minor, 69, § 1.

INSTRUCTIONS.
How given to jury, 42, § 202.

J

JAIL.
Escaping from, 45, § 1.

JEWELERS.
To pay license, 75, § 5.

JOINT memorial.
Concerning assay office in Montana, 151.

JOINT resolutions.
Procuring Daily Montanian, 148.
Concerning obstructions in Upper Missouri, 148.
Authorizing territorial auditor to draw back pay, 149.
For relief of L. M. Todd, 149.
To pay for printing, 150.
Appointing committee to introduce license act, 150.

JUDGE of election.
Fees of established, 54, § 3.

JUDGE of probate court.
Fees of established, 61, § 1.

JUDGMENT.
When attachment may issue on, 40, § 2.

JUDICIAL district.
District attorney elected in, 48, § 1.

JURORS.
Fees of established, 53, § 1.
Qualification of, 71, § 8.

JURY.
How instructed, 42, § 202.

JUSTICES of the peace.
Fees of established, 58, §§ 1, 3.
Election of, 71, § 112.

JUSTICES of the supreme court.
Report of concerning law library, 36, § 3.

K

KEEPERS.
Of livery, to pay license, 74, § 2.
Of bakery, to pay license, 74, § 3.
Of hotels, etc., to pay license, 76, § 7.
Of saloons, to pay license, 78, § 11.

HeinOnline -- 1873 163 1873

KILLING game.
See *Game.*

L

LABOR.
Of convicts, 90, § 14.

LANDS.
Railroad company may acquire, 103, § 15.

LAUNDRY men.
To pay license, 80, § 16.

LAW.
Relating to escapes posted, 46, § 3.

LAW reports.
Appropriation to continue, 36, § 1.

LAWS.
Act to provide for publication of, 128.
Members, furnished with, 132.

LAWYERS.
To pay license, 73, § 1.

LEGISLATIVE assembly.
Reports made to, 36, § 3.
Regular sessions of, 72, § 1.

LEWIS and Clark county.
License paid to Helena fire department, 133.

LICENSE.
Term for which may be granted, 80, § 20.
Penalty for doing business without, 82, § 23.

LICENSES.
Act concerning, 73, §§ 1, 27.

LICENSE tax.
Levied and collected, 73, § 1.
Lien on property, 81, § 22.

LIEN.
License, tax on all property, 81, § 22.

LIMITATIONS.
Act amending law of, 83, § 1.
List of fees posted, 64, § 1.

LIVERY.
Keeper of stable to pay license, 74, § 2.

LOANERS.
See *Money Loaners.*

LOCATION.
Of railroad beds, may be changed, 102, § 13.
Of mining claims, 83, § 1.

LODES.
See *Mining Claims.*

LOST goods.
See *Estrays and Lost Goods.*

LOTTERIES.
Proprietor to pay license, 80, § 17.

M

MADISON county.
Act relating to certain warrants of, 130.

MALT liquors.
Manufacturer of to pay license, 77, § 10.

MANUFACTURER.
To pay license, 77, § 10

MARRIED women.
When may sue for damages by sale of intoxicating liquors, 70, § 2.

MEMORANDUM.
Of costs taxed, 39, § 1.

MERCHANT.
To pay license, 75, § 5.

MESSENGER of election returns.
Fees of established, 54, § 4.

MILEAGE.
Allowed sheriffs, 50, § 1.
Allowed witnesses and jurors, 53, § 1.
Of messenger conveying election returns, 54, § 4.
Allowed county treasurers, 57, § 1.

MINES.
See *Mining Claims.*

MINING claims.
Of decedent, when sold, 35, § 1.
Notice of discovery required, 83, § 1.
Penalty for removing or destroying notice or monument, 84, § 2.

MINORS.
Intoxicating liquor not furnished to, 69, § 1.

MISSOULA county.
Amending act authorizing commissioners to levy special tax, 132.

MISDEMEANOR.
Removing monument in mining claim, 84, § 2.

MONEY loaners.
To pay license, 74, § 4.

HeinOnline -- 1873 164 1873

MONUMENT.
Penalty removing from mining claims, 84, § 2.

MONTANA law library.
Annual appropriation for, 36, § 1.

MORTGAGE.
Railroad company may execute, 102, § 14.

MOTION.
To retax costs, 39, § 1.

N

NOTARY public.
Fees of established, 60, § 3.

NOTARIES public.
Act concerning, 84.
Records of, when deposited with district clerk, 84, § 1.
Qualifications of, 85, § 2.

NOTICE.
Of discovery of mining claim, 83, § 1.
Penalty for removing, from mining claim, 84, § 2.

O

OATH.
Of directors of penitentiary, 86, § 1.
Of warden of same, 88, § 5.

OFFICER.
To keep list of fees posted, 64, § 1.
Not entitled to fees unless same itemized, 64, § 2.
To have bond recorded, 86, §§ 1, 2.

OFFICERS.
To discharge duties without prepayment of costs, when, 40, § 1.

OFFICERS historical society.
Annual report of, 36, § 3.

OFFICIAL bonds.
Act concerning, 86.
Territorial officers to file certified copy with secretary of territory, 86, § 1.
County officers to have recorded with county recorder, 86, § 2.

ORDER.
Of proceedure in trials, 42, § 202.

P

PANEL of grand jury.
Of what number composed, 43, § 117.

PARDONS.
May be granted on conditions, 44, § 1.
When conditions of violated, 44, § 1.

PARTRIDGE.
See *Game.*

PARTY.
Either may have jury instructed, 42, § 202.

PATENT.
Mining claims of decedent not patented sold, 35, § 1.

PAWNBROKER.
To pay license, 73, § 1.

PEDDLERS.
To pay license, 77, § 9.

PENALTY.
Prisoner attempting escape, 45, § 1.
Doing business without license, 82, § 23.
Tax collector neglecting duty, 82, § 24.
Removing notice or monument on mining claim, 84, § 2.

PENITENTIARY.
Escaping from, 45, § 1.
Act to regulate and govern, 86.
Directors, bond and oath, 86, § 1.
Same, to organize, 87, § 2.
Majority of directors may act, 87, § 3.
General duties of directors, 87, § 4.
Warden — appointment, oath, and bond, 88, § 5.
Residence and duties of same, 88, § 6.
Physician and guards, 89, § 7.
Accounts of prison, registry of convicts, 89, § 8.
Purchase of supplies, 89, § 9.
Appointment of employes, 89, § 10.
Vacancy in directorship, 90, § 11.
Pay of officers and employes, 90, § 12.
How appropriation drawn, 90, § 13.
Labor of convicts, 90, § 14.
Treatment of convicts, 91, § 15.
Convicts credited with good behavior, 91, § 16.
Of United States convicts, 92, § 17.
Payment of salaries and expenses, 92, § 18.

PHYSICIAN and surgeon.
To pay license, 73, § 1.

PICTURE gallery.
Keeper of to pay license, 79, § 13.

HeinOnline -- 1873 165 1873

PLACER mines.
Of decedent, when sold, 35, § 1.

POOR person.
May prosecute suit without costs, 40, § 1.

POSSESSION.
Of dead bodies of game, 67, § 4.

POSTAGE.
Allowed superintendent public instruction, 121, § 5.

PRAIRIE chicken.
See *Game.*

PRISONER.
Attempting escape, 45, § 1.

PROBATE clerk.
See *Clerk of Probate Court.*

PROBATE judge.
See *Judge of Probate Court.*

PROCEEDING.
To retax costs, 39, § 1.
Against delinquent tax-payer, 81, § 22.

PROFESSIONAL men.
To pay license, 73, § 1.

PROOF.
How given on trial, 42, § 202.

Q

QUAIL.
See *Game.*

QUALIFICATION.
Of electors, 49, § 1.
Of jurors, 71, § 8.
Of notary public, 85, § 4.

QUARTZ claims.
Of deceased person, when sold, 35, § 1.
Notice of discovery of same, 83, § 1.

R

RAILROAD.
Act to authorize the several counties to aid in the construction of, 110.

RAILROADS.
Act to provide for formation of railroad corporations, 93.
Who may be corporate body, 93, § 1.
Of the certificate of incorporation, 93, § 2.

RAILROADS—*Continued.*
When corporation deemed perfected, 94, § 3.
Powers of corporation, 94, § 4.
Of the capital stock and its payment, 94, § 5.
Sale of capital stock, 95, § 6.
Opening books and election of directors, 96, § 7.
Right of way and use of materials, 97, § 8.
Right over private lands, 97, § 9.
Right of way through streets, etc., 100, § 10.
Right of way through defiles, etc., 100, § 11.
When work to commence, 101, § 12.
Power to change location of road bed, 102, § 13.
Power to borrow money and issue bonds, 102, § 14.
Purchase and conveyance of lands, 103, § 15.
Right to change road or divert stream, 103, § 16.
Location of principal office, 103, § 17.
Establishment of telegraph line, 103, § 18.
Territory, no liability, 103, § 19.
Liability of corporation to employe, 104, § 20.
Increase of capital stock, 104, § 21.
Corporations may accept provisions of act of congress, 104, § 22.
Regulating rates of fare and freights, 104, § 23.
Annual report to auditor, 106, § 24.

RATES.
Of fare and freights on railroads, 104, § 22.

RECEIPT.
For fees, when given, 64, § 4.

RECORD.
Instructions filed as part of, 42, § 202.
Of discovery of mining claim, 83, § 1.

RECORDER.
See *County Clerk and Recorder.*

RECORDS.
Of notary, deposited in office of district clerk, 84, § 1.

RECTIFIER.
To pay license, 77, § 10.

RENT.
Allowed superintendent of public instruction, 121, § 5.

HeinOnline -- 1873 166 1873

REPEALED.
In relation to administrators and executors, 35, § 2.
In relation to civil practice act, 41, § 2.
In relation to civil practice act, 43, § 2.
In relation to criminal practice act, 43, § 2.
Section 459 of criminal practice act, 44, § 2.
Section 2 of chapter 27, county finance, 47, § 1.
Concerning elections, 49, § 2.
Concerning sheriffs' fees, 51, § 2.
Concerning fees of county clerk and recorder, 53, § 3.
Concerning fees of witnesses and jurors, and other officers, 54, § 5.
Concerning fees of clerk of district court, 56, § 2.
Concerning fees of county treasurer, 58, § 2.
Concerning fees of justices of the peace, 59, § 2.
Concerning fees of assessors, coroners, and others, 60, § 4.
Concerning fees of probate judge and clerk, 62, § 2.
Concerning fees of district attorneys and others, 64, § 3.
Act relating to killing of game, 68, § 11.
Act relating to sale of intoxicating liquors, 70, § 3.
Concerning jurors, 71, § 2.
Concerning justices and constables, 72, § 3.
Concerning legislature, 72, § 2.
Act concerning licenses, 82, § 26.
Section relating to limitations, 83, § 2.
Chapter 45, concerning mines, 84, § 3.
Sections relating to notaries public, 85, § 3.
Section relating to revenue, 116, § 1.
Concerning roads and highways, 120, § 18.
As to salaries of auditor and treasurer, 122, § 7.
Sections relating to schools, 126, § 7.
In relation to certain county warrants, of Madison county, 130, § 3.
REPORT.
Concerning law library, and historical society, 36, § 3.
Of directors of penitentiary, 87, § 4.
By railroad officers, 106, § 24.
RESIDENCE.
Of warden of penitentiary, 88, § 5.
RESOLUTIONS.
See *Joint Resolution.*
RESTAURANTS.
Keepers of, to pay license, 76, § 7.
RETAXING costs.
Proceeding in, 39, § 1.
RETAIL liquor dealers.
To pay license, 77, § 8.
REVENUE.
Sec. 23, concerning repealed, 116.
RIGHT of way.
For railroad company, 97, §§ 8, 10.
ROADS.
Chartered, to pay license, 79, § 14.
ROADS and highways.
Act to define and provide for work of, 116.

S

SALARY.
Of district attorneys, 63, § 1.
Of county superintendent of schools, 63, § 2.
Of territorial auditor and treasurer, 121, § 1.
Same to receive no other compensation, 121, § 2.
Of superintendent of public instruction, 121, § 3.
Traveling expenses of same, 121, § 4.
SALARIES.
Of officers and employes of penitentiary, 90, § 12.
Same, how paid, 92, § 18.
SALE.
Of mining claim of decedent, 35, § 1.
SALOONS.
License for, 73, § 1.
SCHOOL fund.
Certain fines paid to, 47, § 3.
SOHOOLS.
Amending act concerning, 122.
SECRETARY of territory.
Certificate to, qualification of notary, 85, § 2.
Certificate of railroad incorporation filed with, 93, § 2.
SESSIONS.
Of legislature, 72, § 1.

HeinOnline -- 1873 167 1873

SET off.
Of costs, illegally taxed, 39, § 1.

SHERIFF.
Overtaxing costs, 39, § 1.
Fees for re-arresting convicts on warrant of governor, 44, § 1.
Fees of established, 50, §§ 1, 2.

SHOWS.
License for, 73, § 1.

SINGING bird.
See *Game.*

SPECIAL laws.
Act to punish vagrants and idlers in Gallatin county, 127.
Act providing for publication of certain laws, 128.
Act relating to certain warrants of Madison county, 130.
Act providing payment of certain expenses, 130.
Act amending an act to incorporate the historical society of Montana, 131.
Act to furnish copies of laws, 132.
Act amending an act, authorizing the commissioners of Missoula county to lay special tax, 132.
Act providing payment of license tax, of Lewis and Clark county to Helena fire department, 133.
Act making appropriation to print auditor's and treasurer's reports, 133.
Act to incorporate the town of Helena, 134.

STAKE.
Removing on mining claims, 84, § 2.

STAGE company.
To pay license, 80, § 19.

STOCK of railroad company.
See *Capital Stock.*

STREAM.
When railroad company may divert, 103, § 16.

SUPERINTENDENT of public instruction.
Salary of, 121, § 3.
Traveling expenses, 121, § 4.
Allowance of rent, etc., 121, § 5.

SUPPLIES.
For penitentiary, how purchased, 89, § 9.

SURGEON.
See *Physician and Surgeon.*

T

TAX collector.
Duties under license law, 80, § 21.
Penalty for neglect of duty, 82, § 24.
See *County Treasurer.*

TAX payer.
Proceeding against delinquent, 81, § 22.

TELEGRAPH lines.
Railroad company may erect, 103, § 18.

TERRITORIAL auditor.
To draw warrants for law library and historical society, 36, § 3.
To issue warrants, paying expenses of penitentiary, 92, § 18.
Officer of railroad to report to, 106, § 24.
Salary allowed, 121, § 1.
To receive no other compensation, 121, § 2.
Appropriation for printing report of, 133.

TERRITORIAL law library.
See *Montana Law Library.*

TERRITORY of Montana.
Not responsible for debts of railroad, 103, § 19.

TERRITORIAL treasurer.
May issue bonds funding indebtedness, 63, § 1.
Salary allowed, 121, § 1.
To receive no other compensation, 121, § 2.
Appropriation for printing report of, 133.

TERM.
Of office of justices and constable, 71, § 112.
For which license may be granted, 80, § 20.
Of office of warden of penitentiary, 88, § 5.

THEATER.
License for, 73, § 1.

TOWN.
Unlawful to discharge fire arms in, 46, § 1.

TRAVELING expenses.
Of superintendent of public instruction, 121, § 4.

HeinOnline -- 1873 168 1873

TRIAL.
When during, in case of felony, accused may be arrested, 45, § 1.

TRIAL juror.
Qualification of, 71, § 8.

TRIALS.
Order of procedure during, 42, § 202.

U

UNITED STATES.
Prisoners where kept, 92, § 17.

UNLAWFUL tax.
Proceeding to retax, 39, § 1.

UPPER Missouri river.
Resolution concerning obstructions in, 148.

V

VACANCY.
In directorship of penitentiary, 90, § 11.

VEINS.
See *Mining Claims.*

VIOLATION.
Of conditions of pardon, 44, § 1.

VOTER.
See *Elections.*

W

WARDEN of penitentiary.
Books of, examined, 87, § 4.
Appointment, oath and bond of, 88, § 5.
Residence and general duties of, 88, § 6.

WARRANT.
For re-arrest of convict by governor, 44, § 1.

WARRANTS, county.
Relating to Madison county, 130.

WARRANTS, territorial.
Issued for appropriation for law library and historical society, 36, § 3.
Bonds issued for, 65, § 1.
To pay for publication of laws, 128.
To pay U. S. Marshal, 130.
To pay for printing reports, 133.
For back pay of auditor, 149.

WATER ditch.
To pay license, 79, § 15.

WITNESSES.
Fees of established, 53, § 1.

WORK.
When railroad company to begin, 101, § 12.

HeinOnline -- 1873 169 1873